2 B
1

App. F. IX-4

1938-9 (S.A.)

File No. 553-38

Serial Nos. 147

Previous References

S.A. 260-15 (1 to 2)
" 27-24 (1 to 6)
" 35-25 (9 to 10)
~~Letter References.~~
" 26-26 (1 to 2)

Late Refs
S.P. 16-39 (1-3) (Memorandum)
L. Refs
S.P. 10-40 (1 to 2)
S.P. 4-46-(1-3)

PRESERVED

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. Seven

Part B for July 1935

SUBJECT.

Disposal of Nayadurg family pension

5(6) To the Comptroller & A.-G. No. 386 of 18-7-35.

WD 0418—GPB—22,500—29-8-36

Sanctioned the Nayadurg Rajkumari pension of Rs. 94 p.m. to Mrs. Draupadi Bai Nayadurg in the name of his adopted son Mr. M. V. Naik from 1-4-35.

MRN 14/8/35

Petition of Sri Muddumanjammani of the Rayadurg family 4140

General and Revenue Secretariat S&R File No. 553 of 1938. [App. F. III—2

Serial No.



Petition Dt 3-5-1939 from muddumanjammanni requesting on behalf of his minor son Nanjundappa Naik for the ~~continuance~~ grant to him of the full pension of Rs 104/- of the Rayadurg family that was being drawn by Mr Mudduswamy Naik

1) A report may perhaps be called for from the comptroller in the matter. An o.m. to the comptroller is submd for orders

Hm 10/5/39.

2) For perusal & remarks

9/5/39

3) 15/5/39

Issued No R 7340 Dt 13-5-39 9/5/39

Sen A 15/5/39

NOTE—Contn. Sheet.

WD 0544—GPB—30,000—2-9-38

Serial No.

~~Any~~ her contention will only be entertainable if the adoption ~~of~~ by ~~the~~ the deceased pensioner is held invalid. ~~She~~ ~~fa~~ Her own father-in-law tried his best to contest the validity of the adoption ~~and~~ and a competent Court of law held that it was valid. ~~Govt. h~~ (Vide Judgment d. 26.8.1935 of the Dt. Judge Bangalore Copy of which has been sent with the Comptroller's Report) As the adoption has been recognised by Govt (14 years back) with specific reference to the question of Continuance of the Pallegar pension; the petition put in by the Lady does not seem to deserve any consideration (She is silent about the previous history of the case).

It is for consideration whether the comptroller's ~~recommend~~ original recommendation to register the pension in the name of the adopted son, Mr V.V. Naik, may be approved, or whether the Comptroller need be asked to pursue the enquiry into the petition now presented by Muddumajammanni

NOTE—Contn. Sheet.

Disposal of Royadroog family pension

4635/F 7766/P

G.A. File No. 553 of 193 8

General and Revenue Secretariat.

Serial No.

and give her a formal hearing etc.
(The chances are that the lady will make attempts to delay the disposal as long as possible).

12) If necessary, the Law Dept. also may be consulted.) A
CPA 22/6/39.

Further)

13) A. yes.
AD

Asst. Secy. Law Dept. 23/6/39
we.) CPA 24/6

410/F
Law
BKR 27.6

14) By an order of H.H. 25, the Govt. were pleased to recognise the adoption of Mr. V.V. Naik for the purpose of continuing the Pollegar pension of Mr. Muddaswami Naik.

15) Mr. Koneti Naik, a cousin of Mr. Muddaswami Naik petitioned before Govt. that the said adoption of Mr. V.V. Naik should not be recognised and that the above mentioned Govt. order be rescinded. He was finally informed on 12.10.26, that it was open to him to get the adoption invalidated in a Court of law and then move the Government

4422

General and Revenue Secretariat | File No. 4444/39 of 193 | [App. F. III—2

Serial No.

Letter no 6990/SHT. d 22.5.1939 from the Comptroller to Govt forwarding for orders the report of the S.H. Iry Officer regarding the disposal of Pollegar Pension which was being drawn by late Mr Mudduswami Naik of Royadroog Pallegar family

Letter no 7151. S.H. Iry d 27.5.39 from the same officer stating that ~~the~~ petition of Sri Muddanamjammani claiming the pension drawn by late Mr Muddusami Naik of Royadroog family will be enquired into and a detailed report subtd by Govt.

4) The report may perhaps be awaited o

MD 4/6.

~~(Reference completed)~~

5) Please post up papers ~~&~~ of 1925 re: recognition of the adoption of Mr V.V. Naik & the G.O. d. 19.2.16 sanctioning pension to the deceased

CPA 5/6

6) Submitted with ~~S&~~ S&A. 27-24-6 d. 4.4.25 recognising adoption of Mr. V.V. Naik & G.O. S&A 260-15-2 d. 15.2.16 sanctioning continuance of the pension to the deceased.

~~Sd/-~~

NOTE—Contn. Sheet.

WD 0544—GPB—30,000—2-9-38

PTO

4444-2635

File No. of 193 | General and Revenue Secretariat

From Comptr. no 7453/S&T R. 12/6/35

States that the enquiry into the theft of Muddunayjammani has to be taken up after 24.6.35; and seeks order of Govt as to whether it is necessary to reopen the case in view of the recognition already granted by Govt in GO R. 4.4.25.

7) Please put up S&A 35-25 ~~1930~~

GO 2/6

8) S&A 35-25 (Collectors) is submd

2/6.

H. G. P & Q

Serial No.

9) Mr. M. Mudduswamy Naik, a Pallegar of the Royadurg family, who was in receipt of a pension of Rs 103-2-0 p.m is reported to have died on 24.4.1939 and a report has been received from the Comptroller recommending that the vacant pension may be registered in the name of Mr. M. V. Venkadri naik alias Mr V.V. Naik, whose adoption as the son of the deceased has been already recognised by Govt. in G.O. No Fl 5454/ S&A 27-24-6, d 4.4.1925.

10) ~~Another claim~~ A petition had been received by Govt. from one Nanjundappa Naik, minor by his mother Muddunanjammanni as guardian, claiming that the above pension be registered in his name. This petition had been referred to the Comptroller for a report, and with reference to this petition the Comptroller states that the petitioner did not appear before the S.A. Officer on the day appointed, viz 12th June 39, and has asked for a fortnight's time to appear with all necessary records The Comptroller

NOTE—Contn. Sheet.

however, says that ~~the~~ Govt. have already specifically recognised the adoption of Mr V.V. Naik for the pourpose of succession to the Palleyar pension and ~~to~~ that the qustion of validity of the adoption was further taken before the Civil Courts by Muddunanjammanni's father-in-law and the adoption was duly held to be ~~held to be~~ valid. In the circumstances, the comptroller wants to know whether it is necessary now to re-open the question and hold a further enquiry.

11) It may be stated that Mudduswamy Naik himself derived the pension in Dec 1915, as the only son and heir of Muddukrishnappa Naik who was drawing it since 1861.

~~The~~ Muddunanjammanni's claim is based on the circumstance that her husband is the male descendent of a Cousin brother of Muddukrishnappa Naik. and

Serial No.

for redress. Accordingly he instituted a suit in the 1st Munsiff's Court Bangalore in OS. 519 of 28-29, one of the reliefs claimed in that suit being for a declaration that the adoption of Mr V-V. Naik was not true and even if true was invalid. The suit was decreed in his favour, but in the appeal (R.A 137 of 32-33) before the District Judge Bangalore, the decision of the Lower Court was reversed and the adoption of Mr V.V. Naik was upheld. (See Paras 13 and 16 of judgment). The Second appeal (S.A 111 of 35-36) filed by Mr Koneri Naik before the High Court was dismissed. It is thus seen that the truth and validity of the adoption of Mr V.V. Naik has been established in a Court of Law.

Flag G.

Flag H.

16) The present petitioner Nanjundappa Naik is the grandson of Mr Koneri Naik, and is therefore naturally bound by the court proceedings referred to above. As the petitioner & his predecessor in title have failed to get the adoption of Mr V-V. Naik declared invalid, there seems to be no reasonable impediment to give effect to the G.O. of 1925 by recognising

NOTE—Contn. Sheet.

Disposal of Royadroog family pension

S ff File No. 4865/31 553 4635/37 of 193 .

General and Revenue Secretariat

Serial No.

The claim of Mr V.V. Naik for the pension which the late Mr Muddurswami Naik was drawing. Since the position is very clear, there seems to be no need to give a formal hearing to the petitioner

BKP 30.6

Law Secy)

17) on 4.4.25 Govt passed an order recognising the adoption of V.V. Naik by Muddurswami Naik in respect of the Pattom pension. Subsequently on the representation of Koneti Naik the grandfather of the present minor petr, he was informed that it was open to him to get the adoption invalidated in a Court of law & then apply to Govt for redress. He sued in the Civil Courts. The adoption was upheld in the 1st Court on appeal & this was confirmed in the High Court. There is no necessity for any further enquiry or hearing into the petition since present minor petitioner Smt Muddurswami Naik (is dead); the pension may be granted to his adopted son V.V. Naik.

OFFICE OF THE FIRST MEMBER OF COUNCIL
JUL 7 1939
No 248

for Member (Finance & Revenue) AD 7.7.39

CL 6/7/39

BKP 8/7/39

AD 12-7-39

BKP 10-7

4/7/7 Finance

1865

Disposal of Royalty Family pension

General and Revenue Secretariat | File No. | of 193 | [App. F. III-2

Serial No.

Subd with a draft for approval...

12.7.39. May perhaps be Subd. to the Dewan also

13.

Please post up draft GO

Gole 15/7

511

Subd with a draft G.O. for kind approval.

Two drafts for orders—

17.7.39.

For perusal before issue

17.7.39

Dewan)

17-7-39

Issue as now

6) 2. Confdl — No 386 dt. 18/7/39 —

Directs that the Rayadrug Palleyar section of Late Ramdaswami Naik be registered in the name of his adopted son Mr. M.V. Naik for 1-4-39.

2. Confdl — No 387 dt. 18/7/39 —

In view of above G.O. states that there is no need to hold further enquiry in the matter....

2a) 2a. Confdl — No 649 dt. 21/8 — Returns the records etc. and the Copy of the Sessions Court order...

2a. Mr. Naik — Returns Copies of the orders of the High Court & that of the Dt. Sessions Court

NOTE—Contn. Sheet.

13/8/39

S&A. 53-3-38-2

App. F. G. 9]

GOVT. OF H. H. THE MAHARAJA OF MYSORE.

GEN. & REV. SECRETARIAT.

OFFICIAL MEMORANDUM.

No. 7340

The accompanying Petition Registered

No. 4140 dated 3-5-39

received at the General and Revenue Secretariat from Sri muddumanjaamma No. 35 Palace Gultahally, Bangalore, requesting on behalf of her minor son Nanjundappa Naik, for the grant of full pension Rs 10/- of the Rayadurg family that was being drawn by Mr. mudduswamy Naik —

is forwarded, together with its enclosures to the comptroller for a detailed report. The petition may kindly be returned with the reply for—

By Order,

for Fin'l Secretary.

BANGALORE,
19

7340
Dy. 13-5-39

[P. T. O.

WD 0188—GPB—1,500—4-9-34

GEN. & REV. SECR. 4209 12 MAY 1939 FINANCIAL BRANCH

OFFICE OF THE DEWAN OF MYSORE.

Pet. No. 3440 Camp:- Tumkur

Bangalore, Dated, 8 5 1939.

FINANCIAL SECRETARY 11 MAY 1939 GOVT. OF MYSORE

The accompanying petition addressed to the Dewan is forwarded, with compliments, to the Secretary to Government, Financial Department, for favour of disposal.

A report has been called for from the comptroller on the copy of the petition which had been addressed to the Fin. Secy. Hence this may be placed in the file. O.M. was issued to the comptroller calling for a report on 13-5-1939. Stated. An endorsement with petitioner stating that the matter is receiving attention may perhaps come in the meantime.

MR 15/5/39

By Order,

15/5

for Private Secretary to the Dewan.

358

COURT FEE — TWO RUPEES

To

The Dewan of Mysore,

Public Offices,

Bangalore.

OFFICE OF THE DEWAN OF MYSORE.
Date of receipt 8-5-39
Petn: Regr. No. 3440

Regarding Paleygar Pension payable to Rayadurga Family the last recipient being late Mr. Muddusami Naik son of Muddukrishna Naik.

--

Nanjundappa Naik, son of Rajagopala Naik aged 12 years minor by his mother and natural guardian Muddunanjammanni residing at No.35, 3rd Main Road, Palace Guttahalli, Bangalore City — PETITIONER.

Respected Sir,

On behalf of her minor son, the petitioner, above-named his mother submits the following few facts for your kind consideration and favourable disposal.

The erst-while recipient late Mr. Mudduswami Naik was being granted every month Rs.104/- towards his share of the political pension payable to the Rayadurg Family. The said Muddusami Naik was my minor son's paternal-grand-uncle as seen from the Geneological tree appended hereunder.

KONETI NAICK(Dead)

Muddukrishna Naik(Dead)	Nanjunda Naik(Dead Koneti Naik(Dead)
Mudduswami Naik(died on 23-4-1939, the last recipient of the Political pension in question.	Venkatapathi Naik(Dead) Wives:-(1)Ammanniyamma (2) Ammanniyamma. Nanjammanni(1st wife's Daughter)
	Rajagopala Naik(Dead) Wife:-Muddu Nanjammanni
	NANJUNDAPPA NAIK(Petitioner
	Sa[illegible]adamma

The said Muddusami Naik died on 23rd April 1939 leaving no male issue. His widow, daughter and daughter's son never intimated the fact of the death to the petitioner. The entire Poleygar political pension due to this Rayadurg Family is being shared by the two branches indicated in the Geneology above. The minor petitioner is the sole surviving direct male descendant of the last owner of the entire political pension payable to the Rayadurg Family and in the light of the standing orders of the Government Camp.No. 1678 Mysore dated 29th October 1887 and the uniform procedure ~~to~~ and precedents adopted by the Government in continuing the political pension to only the direct male line or the agnatic heirs of the last recipient, the minor petitioner alone is entitled to the share of political pension that was being paid to late Muddusami Naik. As the deceased has left a widow, the petitioner requests that a reasonable sum out of her husband's share of the political pension be paid to her for her life towards her maintenance, and the remainder be ordered to be paid to the petitioner who is being paid only half the pension that his grand-father late R.P. Koneti Naik drew. The Minor petitioner has his mother and unmarried sister to protect and to educate himself out of this meagre income.

In the event of any other claimant urging his or her claim to this portion of the political pension, the petitioner/mother respectfully prays an opportunity be given to her to contest such claim or claims and to

ముద్దునంజమ్మన్న

establish her son's claim to the same. For this act of kindness the petitioner who is a minor and his mother a helpless widow will ever feel grateful.

I beg to remain,

Respected Sir,

Bangalore City,)
)
3rd May 1939)

Your most obedient servant.

ముద్దనంజమ్మ

Petitioner's mother.

No.35, Palace Guttahalli,
third Main Road,
Malleswaram Post
Bangalore.

53-3-38-3

OFFICE OF THE COMPTROLLER TO THE GOVERNMENT
OF HIS HIGHNESS THE MAHARAJA OF MYSORE.

No. 6990/S.H.T. *Bangalore, Dated* 22nd May *1939.*

FINANCIAL SECRETARY 23 MAY 1939 GOVT. OF MYSORE

From

M. VIRARAJA URS, Esqr., B.A., B.L.,
Comptroller to the Government of
His Highness the Maharaja of Mysore,
Bangalore.

FINANCIAL 4422

To

A.N. Raghavachar, Esq., M.A.,
Financial Secretary to Government,
Bangalore.

I believe there was a petition from some lady re: this pension, which was sent to comptr. Please put up those papers also if they are related to this

Sir,

I have the honour to forward herewith for the information and orders of Government the report of the Officer in Charge of State Huzur Treasury, recommending under the circumstances explained by him that the Pallegar pension of Rs.103-2-0 a month which was being drawn by Mr. M. Mudduswamy Naik of Rayadrug Pallegar family and which is vacant consequent on his death on 24-4-1939, may be registered in the name of his adopted son Mr. M.V. Venkatadrinaik alias Mr. V.V.Naik and that he may be permitted to draw this pension which is available from 1-4-1939 as the deceased pensioner has drawn it only till the end of March 1939.

I have the honour to be,

Sir,

Your most obedient servant,

M. Viraraja Urs.

Comptroller.

S.S.

S/A 39-2

OFFICE OF THE COMPTROLLER TO THE GOVERNMENT
OF HIS HIGHNESS THE MAHARAJA OF MYSORE.

No. 6989/S.H.Try. *Bangalore, Dated* 22nd May *1939.*

From

M. VIRARAJA URS, Esqr., B.A., B.L.,
Comptroller to the Government of
His Highness the Maharaja of Mysore,
Bangalore.

To

The Comptroller to the Government
of Mysore, Bangalore.

Sir,

I have the honour to report that Mr. R.P.Mudduswami Naik, of Ryadrug Pallegar family who was drawing a pension of Rs.103-2-0 sanctioned in Government order No.F13967-8-0/S&A 260-15-2 dated the 19th February 1916 is reported to have died at Bangalore on 24-4-1939. Mr. M. Venkatadri Naik alias Mr. M.V. Venkataramanaswami Naik (Mr. V.V. Naik) has put in a petition under dated 12-5-1939, as the adopted son of the late Mr. Mudduswami Naik, praying that the Government may be pleased to register the vacant pension in his name.

2 The late Mr. Mudduswami Naik has left behind him his wife Sri Bhagyamma, his adopted son, the petitioner and a widowed daughter, Sri Gowramma. Mr. M. Venkatadri Naik the adopted son of the late pensioner is the only son of the widowed daughter referred to above. Both of these ladies are living under his protection and have given statements that the pension that was allowed to Mr. M. Mudduswami Naik may be registered in the name of Mr. Venkatadri Naik (Mr. V.V.Naik).

3 As the adoption of the petitioner Mr. M. Venkatadri Naik has been recognised by Government in their order No.Fl.5454/S&A 27-24-6 dated the 4th April 1925 and held to be valid as per para 16 of the Judgment of the District Judge, Bangalore, in regular appeal No.137 of 1932-33 (copy enclosed) and as the wife and daughter of the deceased pensioner have also given state-

statements before the undersigned that they are under the protection of Mr. M. Venkatadri Naik and that the pension of Rs.103-2-0 may be registered in his name, I am of opinion that a recommendation may kindly be made to Government to sanction the request of the petitioner i.e., to register the vacant pension of Rs.103-2-0 in favour of Mr. M. Venkatadri Naik. Further as Mr. Mudduswami Naik has drawn his pension only till the end of March 1939, his pension is available from 1-4-1939. Mr. M. Venkatadri Naik may therefore be recognised as entitled to this vacant pension and that from 1-4-1939.

The petition received from Mr. M. Venkatadri Naik and the statements given before me by Sri Bhagyamma and Gowramma and the death certificate are enclosed for the information of Government and kind orders.

I may add that I have not considered it necessary to refer the case to the Amildar for enquiry as to the claimants to the pension, as from the records it is seen that the deceased pensioner has not left behind him any other issues except the adopted son and daughter and as according to Hindu Law the son is the claimant to the pension that is vacant.

I have the honour to be,

Sir,

Your most obedient servant,

R. Sreenivasa 22-5-39

Officer in Charge State Huzur Treasury.

MR

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE.

GEN. & REV. SECRETARIAT. 31 MAY 1939 4444 FINANCIAL BRANCH.

535-08-4

Comptroller's Office, Bangalore,

No. 7151 S.H.Try **Dated the** 27th May **193**.

A. N. Raghavachar Esq., M.A.,
Financial Secretary to the Government of Mysore,
Bangalore.

FINANCIAL SECRETARY 29 MAY 19.. GOVT. OF MYSORE

Sir,

Adverting to your letter No.Fl.7340-S&A.553-38-2 dated the 13th May 1939 forwarding the petition of SriMuddananjammani putting forth a claim on behalf of her minor son Mr. Nanjundappa Naik to the Pallegar pension which has become vacant consequent on the death of Mr. Mudduswami Naik of Rayadurg family, I have the honor to state that the report of the State Huzur Treasury Officer which was made by him before he received the present petition wherein he has recommended the grant of the pension to Mr. M.V. Venkatadri Naik was sent up to Government under cover of my letter No.6990 S.H.Try dated 22/23-5-39.

The petition now received will be enquired into and a detailed

report on the points referred to therein submitted to Government shortly.

I have the honor to be,
Sir,
Your most obedient servant,

Comptroller (in charge)

CV

S&A 333-38-5

GEN. & REV. SECRETARIAT
15 JUNE 1939
4635
FINANCIAL BRANCH

OFFICE OF THE COMPTROLLER TO THE GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE.

No. 7453/S.H.T. Bangalore, Dated the 12th June 1939.

FINANCIAL SECRETARY
13 JUN
GOVT. OF MYSORE

From

M. VIRARAJA URS, Esqr., B.A., B.L.,
Comptroller to the Government of
His Highness the Maharaja of Mysore,
Bangalore.

To

A. N. Raghavachar, Esqr., M.A.,
Financial Secretary to Govt. of
His Highness the Maharaja of Mysore,
Bangalore.

Sir

In continuation of my letter No.7151/S.H.T dated the 27th May 1939 intimating that the petition of Sri Muddanamjamanni who has put in a claim for a portion of the pension that was being drawn by the late Mr. Mudduswamy Naik, will be enquired into and a report sent, I have the honour to state that the State Huzur Treasury Officer reports that this petitioner to whom a notice was issued on the 2nd June 1939 to appear before him on 12th June 1939, has requested in her petition dated the 9th June 1939 that she may be allowed 15 days time to enable her to appear before him with all the information necessary and records and that therefore the petitioner will have to be enquired into after the 24th of June '39.

In view of the fact that as Government have in their order No. Fl.5454/S & A 27-24-6 dated the 4th April ~~1935~~ 1925 recognised the adoption of Mr. M.V.Venkatadri Naik (Mr.V.V.Vaik), for the purpose of continuing the Pallegar Pension of Mudduswamy Naik and as the recommendation made by the State Huzur Treasury Officer (vide letter No. 6990 dated 22.5.1939) is for registering the vacant pension in the name of this adopted son,

Whether it is necessary to reopen this question and hold any further enquiry into the matter is for kind Orders of Government. The petitioner's father-in-law, the late Mr.R.P.Konda Naik,

contested the validity of adoption in a Court of Law as per endorsement of Government in their Order No. Fl.3062 dated 12.10.1926 and it has been held to be valid as per Para 16 of the Judgement of the District Judge, Bangalore in R.A. 137 of 1932-33.

11. This may be put up on 14/6

I have the honour to be,
Sir,
Your most obedient Servant,

M. Vinayaka Rao
Comptroller.

SMK.

of the aforesaid order and that a gracious order to that effect be issued to the proper authorities. The death-certificate of late Mr. MUDDUSWAMI NAIK who breathed his last on 24th April 1939 is enclosed. The pension may be sanctioned with effect from 1-4-1939.

For which act of kindness your most humble petitioner will for ever be grateful and will for ever pray for your long life and prosperity.

Bangalore,
Dated, 19-5-1939.

PALLEGAR OF RAYADRUG.

FROM

M.V. VENKATADRI NAIK,

Pallegar of Rayadrug,

190, Visweswarapuram, Bangalore City.

TO

THE OFFICER IN CHARGE OF

THE STATE HUZUR TREASURY,

Bangalore.

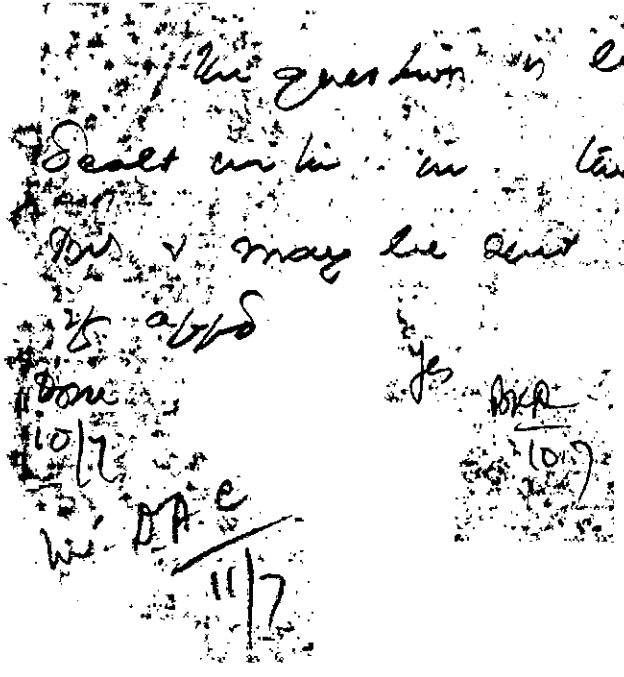


The humble petition of Rayadrug Pallegar respectfully showeth:

That it is with a profound sense of grief and sorrow that the petitioner brings to the notice of the Government the sad demise of R.P. MUDDUSWAMI NAIK, Pallegar of Rayadrug and a Pensioner of the Benign Government of His Highness the Maharaja of Mysore.

That even in his last moments when he breathed his last, the said Mr. MUDDUSWAMI NAIK was deeply grateful to His Highness the Maharaja of Mysore, for all kindness shown to him and his family and for also having by their gracious order No. Fl.5454/S.& A. 27-24-6 dated, Bangalore, 4th April 1925 having recognised your humble petitioner's adoption and especially requested your humble petitioner to bring this to the kind notice of the Government.

That your humble petitioner most respectfully prays that the same kindness be extended to him also and that the aforesaid order No. Fl. 5454/S. & A. 27-24-6 dated, Bangalore, 4th April 1925, be given effect to and that the pension of Rs.103-2-0 per mensem due under the aforesaid order be continued to be paid to your humble petitioner according to the terms



GEN. SECT. 11 JUL 1939 FINANCIAL BRN.
SECT. 10 JUL 1939 SECTION
CHIEF SECRETARY 10 JUL 1939 GOVT. OF MYSORE

The Chief Secretary to the Government of Mysore,

Bangalore.

Petitioner: Nanjundappa Naik, son of Rajagopala Naik aged 12 years. Minor by his mother natural guardian Muddu Nanjammanni, residing at No.35, Third Main Road, Palace Guttahalli, Bangalore City.

Respected Sir,

On behalf her minor son, the petitioner above-named his mother submits the following few facts for your kind consideration.

The petitioner has submitted application to the Government of Mysore on 3rd May 1939, regarding the Pollegar's pension of Rayadrug family of the receipient of late Mr.Muddu-swami Naik is the Paternal Granduncle of my minor son Nanjundappa Naik as seen from the Genological tree appended hereunder.

KONETI NAICK (Dead)

Muddukrishna Naik (Dead)	Nanjunda Naik (Dead) Koneti Naik (Dead)
Mudduswami Naik (Died on 23-4-1939 the last receipent of the political pension in-question	Venkatapathi Naik (Dead) Wives: 1.Ammanniyamma 2.Ammanniyamma Nanjammanni(1st Wife's daughter	Rajagopala Naik (Dead) Wife Muddu Nanjammanni
	Nanjundappa Naik Petitioner.	Sadamma.

The said Mudduswami Naik died on 23rd April 1939 leaving no male issue. His widow daughter and daughter's son by named Mr. Venkataramanaswami Naik (son of Venkatadri Naik) Alias V.V.Naik, never intimated the fact of the death to the petitioner. The entire Pollegar Political pension due to this Rayadrug family is being shared by the two branches indicated in Geneology above. The minor petitioner in the

surviving direct male descendent of the last owner of the entire political pension payable to the Rayadrug family and in the light of the standing orders of the Government Camp No.1678 Mysore D.O. 29-10-1887 and the uniform procedure and precedents adopted by the Government in continuing the Political pension to only the direct male line or the agnatic heirs of the last receipent, the minor petitioner above is entitled to the share of political pension that was being paid to late Mr. Muddaswami Naik.

In view of the above circumstances the above said Mr. V.V. Naik who is the Superintendentof Police, Railways and C.I.D, Bangalore City, has sent messenger to my house persisting to withdraw the petition submitted to Government already. When the petitioner refused to do so the C.I.D. police-men are frequently visiting the petitioner's premises by the powerful influence of Mr. V.V. Naik, to cause her annoyance and disgust to coerce her to get back the petitions by threatening language. The afore-said Mr. V.V. Naik has been using such a language which is disgraceful to his official position and is threatening the petitioner and her minor son to bring under Criminal Prosecution etc.

The petitioner begs to add one important instance for your kind notice, what Mr. V.V. Naik played mischief regarding one pathetic case of Mr.M.Krishnappa Naik, Pollegar of Manjarabad which are as follows:-

" There was no misunderstandings between Mr.M.Krishnappa Naik and Mr.V.V.Naik, until a son was born to Mr. M.Krishnappa Naik. When married 2nd wife Mrs.Adilakshmamma of Mr. M. Krishnappa Naik gave birth to a son, it apparently evoked the greed and jealousy of Mr. V.V. Naik who was asking him in pride to the birth of son to him to take one of his sons in adoption and which he continued to decline.

After the birth of a son having frustrated his hopes he began to harass him by inventing stories to the effect of Mr.M.Krishnappa Naik and his 2nd wife and has set up his first

wife Mrs. Punkajamma, against Mr. Krishnappa Naik and has instigated her to make false and malicious allegations against him. Mrs. Pankajamma made a number of petitions to the Government against her husband at the instigation of Mr. V.V. Naik after keeping quite for over 30 years, as Mrs. Punkajamma has been divorced in accordance with our caste-men Panchayathi.

The petitioner further came to understand that Mr. V.V. Naik has caused great trouble by threatening to our caste Panchayathi-men and they put applications to the Deputy Commissioner in this affairs against Mr. V.V. Naik and Mr. M. Krishnappa Naik also gave number of applications to the Government of Mysore in the affair. The cases, the petitioner learns, are still pending enquiry in the Government and Criminal cases before the 1st Class Magistrate, Bangalore City.

The petitioner afraid for Mr. V.V. Naik's action, therefore the petitioner humbly prays, that you will be kind enough to pass orders in favour of this petitioner.

That the transfer of Mr. V.V. Naik to some other District till the disposal of the petitioner's pension case perding before the Government as Mr. V.V. Naik threatening the petitioner and her minor boy. And proper safeguards may be made to the petitioner and her minor son.

The petitioner begs to remain,
Respected Sir,
Your ~~most~~ obedient servant.

ముద్దునం జమ్మన్నో

Bangalore City,
7th July 1939.

G. R. S. App. F VI—G 2]

SUBJECT .....

.....

.....

Diary No. of letter replied to.....

Section S~~K~~A.

File No. 535-38

Serial No. 6

General and Revenue Secretariat

( )

the 193 .

Proceedings of the Government of His Highness the Maharaja of Mysore.

Date of issue 18.7. 1939.

Signed by Mr. C.J.C

Read— (1) G.O. No. FF 5454/ S&A 27-24-6 dt. 4.4.1925 recognising the adoption of Mr. M. V. Venkatadri Naik alias Mr. V.V. Naik for the purpose of con- -tinuing the Pallegar pension of Mr. M. Muddusami Naik, a Pallegar of the Royadrug family

Order thereon—~~No.~~ (2) Letter No. 6990/S.H. dt. 22.5.39 from the Comptroller to Govt. forwarding the report of the S.H. Treasury Officer regarding the disposal of the Pallegar pension which was being drawn by late Mr. Muddusami Naik of Royadrug Pallegar family who died on 24.4.1939.

May this be—

(i) printed ?

(ii) treated as a standing order ?

(iii) published in the Gazette, English Part ?

(vi) translated ?

(v) placed at the disposal of the press ?

(vi) published in the Gazette, Kannada Part ?

P.U.P.I

(3) Correce ending with letter No. 7453/S.N.J. Dt 12.6.39 from the Comptroller to the Govt. seeking instructions as to whether in view of the petition of Sri Muddanajamanni who has put in a claim on behalf of her minor Son Nanjundappa Naik for a portion of the pension that was being drawn by the late Mr. Meddusami Naik, further enquiry need be made.

Order Thereon No. 7l. 386/S&A. 553-38.

Govt are pleased to direct that ~~there is no necessity~~ for any further enquiry or hearing into the representation of the present minor petitioner & ~~that~~ the Royadrug Pallegar of late ~~Muddusami~~ Naik pension ~~being~~ be granted to Mr. M. V. Venkatadri Naik alias Mr. V.V. Naik ~~the adopted Son of late Mr. M. Meddusami Naik~~ to his adopted Son and his name registered as the heir from 1-4-1939, the date from which the said pension remains undrawn being also disbursed to him

List of Enclosure

Copied by

Examined by

the arrears of pension due

17.7.39

Fit to seen to Govt.

17.7.39.

WD 0523—GPB—22,500—16-3-37

To

The Comptroller to Govt.

Copy to Mr. M.V. Venkatadri Naik alias Mr. V.V. Naik.

PROCEEDINGS OF THE GOVERNMENT OF HIS HIGHNESS
THE MAHARAJA OF MYSORE.

abst.

Read -

(1) Government Order No.Fl.5454/S&A 27-24-6 dated 4th April 1925 recognising the adoption of Mr.M.V.Venkatadri Naik alias Mr.V.V. Naik for the purpose of continuing the Pallegar pension of Mr.M.Muddusami Naik, a Pallegar of the Royadrug family.

(2) Letter No.6990/S.H.T. dated 22nd May 1939 from the Comptroller to Government forwarding the report of the State Huzur Treasury Officer, regarding the disposal of the Pallegar pension which was being drawn by late Mr.Muddusami Naik of Royadrug Pallegar family who died on 24th April 1939.

(3) Correspondence ending with letter No.7453/S.H.T. dated 12th June 1939 from the Comptroller to the Government seeking instructions as to whether in view of the petition of Sri Muddananjamanni who has put in a claim on behalf of her minor son Kanjundappa Naik for a portion of the pension that was being drawn by the late Mr.Muddusami Naik, further enquiry need be made.

O r d e r No. Fe 386/S.& A. 563-38-6

Dated, Bangalore, 18th July 1939.

Government are pleased to direct that the Royadrug Pallegar Pension of late Muddusami Naik be granted to his adopted son Mr.M. V.Venkatadri Naik alias Mr.V.V.Naik and his name registered as the barawardar, the arrears of pension due from 1st April 1939, the date from which the said pension remains undrawn being also disbursed to him.

for Financial Secretary to Government.

To

The Comptroller to Government.

Appendix F G—1]

SUBJECT.....

.....

.....

Diary No. of letter replied to .....

General and Revenue Secretariat

( )

the *193* .

Date of issue 18.7.39

Signed by Mr. C.S.R.

List of enclosures.....

Copied by.....

Examined by.....

Section S & A.

File No. 553-38.

Serial No. 7

No. 7H.387/

To The Comptroller to the Govt.

Sir,

With reference to ~~In replying to~~ the correspondence ending with ~~Your~~ letter No. 7H53/SHT. dt 12.6.39 regarding the claim ~~for a portion of~~ the pension that was being drawn by the late Mr. Mudduswamy Naik, I am directed to ~~intimate~~ state that there is no necessity for any further enquiry or hearing into the ~~petition of~~ representation on behalf of the present minor petitioner, ~~to state~~ that the Jodiegar Pension ~~of the said late Mr Mudduswamy Naik~~ in question may

in view of the fact that the adoption has been upheld by the D.C. Court in appeal and confirmed by the High Court

may be granted to his adopted
son Mr. V. V. Naik.

I have etc.

Asst/7/39

Finl Secretary.

JPM
12.7.39

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat

Dated, Bangalore, 18th July *193*9

No. ಸಿ387(ಜ.ಕಾ.553-387)

From

The *Financial Secretary to the Government of His Highness the Maharaja of Mysore.*

To

The Comptroller to Government,
Bangalore.

Sir,

With reference to the correspondence ending with your letter o.7453/S.H.T. dated 12th June 1939 regarding the claimants for the pension that was being drawn by the late Mr.Mudduswamy Naik, I am directed to state that in view of the fact that the adoption has been upheld by the District Court in appeal and confirmed by the High Court there is no necessity for any further enquiry or hearing into the representation on behalf of the present minor petitioner and that the Hallegar Pension in question may be granted to his adopted son Mr.V.V.Naik.

I have the honour to be,

Sir,

Your most obedient servant,

for Financial Secretary to Government.

Appendix F G—1]

SUBJECT .....

.....

.....

Diary No. of letter replied to .....

General and Revenue Secretariat

( )

the 193 .

Date of issue 2.8.39

Signed by Mr. C.G.A.

1) Copy of order in Regular RPRC no 139 of 22/23 on the file of the Addl D-y Sessions Judge N'lore
2) Petitions dated 12/5/09 (two) & 18/5/09 from Sri M. V. Naick & Sri Bhagyamma addressed to the S.H.Tg Officer
3) Declaration of 19.5.09
4) Death Certificate of 11.5.09

List of enclosures.....

Copied by

Examined by.....

Section S & A.

File No. 553-38

Serial No. 4.

2 Offs (2)

No. H.649/Encl 4.

To

The Comptroller & Gen-

Sir,

In continuation of G.O No. H.386/S.V.N. 553-38-6, dated 18th July 1939, ~~directing that the Rayadrug Pattapar position of Sri Ankalaswami mani be registered in the name of his adopted son Mr. M. Venkata Krishna~~, I am directed to return herewith the marginally noted records received with your report no. L.6990/S&T dt. 22/5/09 in the matter.

I have etc

C.G.A.

for Financial Secretary to Govt.

By.

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat

No. Fl.649/Encs.4.

Dated, Bangalore, ... *193*....

S+A. 553-38-7

From

The *Financial Secretary to the Government of His Highness the Maharaja of Mysore.*

To

The Comptroller to Government of Mysore,

Bangalore.

Sir,

In continuation of Government Order No.Fl.386/S.&.A.553-38-6 dated 18th July 1939, I am directed to return herewith the marginally noted records received with your report No.L.6990/S.H.T. dated 22nd May 1939 in the matter. The copy of the order in Regular Appl no 137 of 32/33 on the file of the Addl Dist Judge Bangalore has been returned to Mr. V.V. Naik as required by him.

1. Copy of order in Regular Appl.No.137 of 32/33 on the file of the Additional Addl District and Sessions Judge, Bangalore.

1) 2. Petitions dated 12-5-39 (two) and 18-5-39 from Mr.M.V.V. Naik and Sri Bhayyamma addressed to the State Huzur Treasury Officer.

2) 3. Declaration dated 19th May 1939.

4. Death Certificate dated 11-5-39

I have the honour to be,
Sir,
Your most obedient servant,

For Financial Secretary to Government.

K.M.R.2.

104/37

To

The Financial Secretary
to the Government of Mysore,
Bangalore.

The petitioner respectfully prays that the *marginally noted documents may kindly be returned at an early date, as they are urgently required for reference.

For which act of kindness, the petitioner remains ever grateful and prays for Your Honour's long life and prosperity.

Certified copies of judgment of District and Sessions Court, Bangalore, and of the High Court of Mysore.

15/7

PETITIONER.

Are these papers in the Secretariat file or have they been returned?

19/7

M. V. V. Naik, Royadrug Political Pensioner,
190-Visweswarapuram,
Bangalore City.

15th July 1939,
Bangalore.

The papers received from the Comptroller ought to have been returned to the Comptroller with the G.O. please return.

Seen at once reply

20/7.

Submitted

The copies are in the main file. The copy of the Sessions Court's order (Ol G) was sent here from the Comptr with his report (P U O I) & the copy of the High Court order (Ol H) was sent here from the petitioner. In order as to whether the 2 copies may be returned to the petnr

20/7

no, the former will go back to the Comptr & the latter to the pet

22/7

G.R.S. III—3]

Routine Notes.

[To be used only for notes, requisitions, &c., not intended for permanent record.]

Draft letter and endorsement are noted.

Mr M.V. Bark has sent word that he wants the two documents urgently (see for reference in connection with an Official report to be submitted on his appeal) & that he would be obliged if they could be returned to him today.

The High Court Judgment was forwarded here by him. The judgment of the Dr court was received with the Comptroller's report & it was probably produced by him before the S.H.T. Pay

Please verify informally and if true, & the documents may be returned direct to him. Return the papers to Comptr & intimate above

N.B.—Should routine notes be written on small slips, the notes must be copied, or slips pasted on this form.

159
31

G.R.S. III—3]

Routine Notes.

[To be used only for notes, requisitions, &c., not intended for permanent record.]

Secd

It is verified that the Sessions Judge's order copy was produced before the Settlement Officer by Mr. Nairn in person.

The 2 copies, the return for which was called for, will be returned when the messenger comes for the purpose.

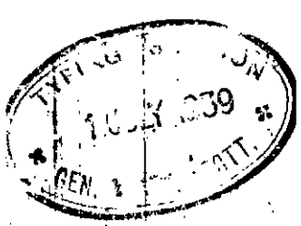
Draft returning the other papers of the Complete is submitted.

29/7

31/7

Jan Ap. 2
31/7

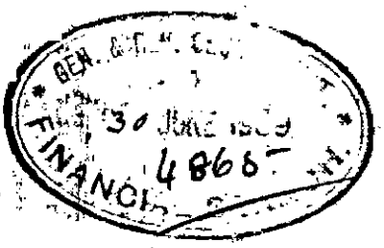
* Returned vide D.O. No. 595 dt. 29.7.09.



N.B.—Should routine notes be written on small slips, the notes must be copied, or slips pasted on this form.

Bangalore,

28th June 1939.



From

M. V. V. Naik,
Rayadurg Pollayagar,
190 - Visveswarapuram,
Bangalore City.

To

The Financial Secretary to Government of Mysore,
Bangalore.

The petitioner humbly submits the enclosed order of the High Court in original where the adoption made by Mr. R. P. Muthusami Naik has been held valid in the High Court No.111 of 1935-36, the Plaintiff in this case being Mr. R. P. Koneti Naik (deceased). The petitioner now learns that R. P. Koneti Naik's grandson Nanjunda Naik is now disputing the claim. As this High Court order holds good in his case also, I pray early orders of Government sanctioning the pension drawn by Mr.Muthusami Naik in the petitioner's name.

For which act of kindness, the petitioners for your honour's long life and prosperity.

29/6/39

Petitioner.

The connected papers have been sent to the Law Dept for opinion, I believe this also may be placed in the file

29/6/39

DO No 395

29/7/39

Encl 2 Judgment Copies

Dear Sir,

As requested by you the undermentioned documents that had been presented in connection with your Pallegar Family Pension Case are accordingly returned herewith.

1) Judgment of the Sub-Court dated 26.8.35 in Regular Appeal 12 of 1922-23

2) Order of the ~~High Court~~ in Second Appeal No 111 of 1935-36 dt 7.8.1938

Issued.

Sd. C. Ramayya

IN THE HIGH COURT OF MYSORE.

Second Appeal No. 111 of 1935–36.

BANGALORE.

R. P. Koneti Naika

(Appellant—Plaintiff)

By Mr. B. V. Rama Rao

Vs.

(1) Mudduswami Naika (2) Venkatadri Naika.

(Respondents—Defendants)

By Mr. E. S. Venkataramanan and
Mr. G. S. Doraswami Iyer.

Presented :—11—11—1935

In the Court of the Munsiff, Bangalore
O. S. No. 519 of 28—29 } Plaint filed ... 30—3—29
Decree passed ... 5—9—32

In the Court of the Addl. Dist. Judge, Bangalore
R. A. No. 137 of 32—33. } Appeal filed ... 17—10—32
Decree passed ... 26—8—35

In the High Court—Appeal filed 12—11—1935

Nature of claim—Suit for declaration.

To be heard on.....193 .

The Daily Post Press, Bangalore—September 1937.

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SECOND APPEAL NO. 111 OF 35–36.

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PLAINT

IN THE COURT OF THE FIRST MUNSIFF, BANGALORE.

Original Suit No. 519 of 1928—29.

Plaintiff :—R. P. Koneti Naika, aged 64 years, son of Nanjundappa Naika, Pensioner, Rayadurga Palyegar, Kshatriya by Caste, residing at house No. 159, Akkipet, Bangalore City.

Vs.

Defendants :—1. Muddasami Naika alias Kannasamy Naika, aged 82 years, Rayadurga Palyegar, Pensioner, residing in house No. 190, Kankanhalli road, Visvesvarapuram, Bangalore City.

2. Venkatadri Naika alias Venkataramanaswamy Naika of Manjarabad Palyegar family, Police Sub-Inspector, Devanahalli Kasba.

Under Order VII, Rule 1, C. P. C., the plaintiff begs to state as follows :—

1. As stated in the genealogical tree filed with plaint showing the relationship between the plaintiff and the defendants, defendant 1 is the cousin of the plaintiff, i.e., he is the son of his senior uncle. Defendant 2 is the son of Gowramma, the daughter of defendant 1.

2. Since the time of Koneti Naika, the grand-father of the plaintiff and defendant 1, the Mysore Government have been paying the political or Palyegar pension to this family. The plaintiff and defendant 1 belong to the family of Rayadurga Palyegars. Defendant 2 belongs to the family of Manjarabad Palyegars.

3. Subsequently, i. e., in about December 1918, Ramaswami, the only son of defendant 1, died issueless leaving behind him his father defendant 1 as his legal representative. Defendant 1 has no other male issue. After the death of defendant 1, the political pension now being paid by Government to him will have to be paid to the plaintiff, i. e., his male descendants. The plaintiff and his sons are the reversionary heirs to get this pension.

4. With the intention of defeating the reversionary right of the plaintiff and to deprive him of the political pension that was being received as Manjarabad Palyegar family. he wanted to take in adoption defendant 2 who is the son of defendant 1's daughter and who belongs to a separate gotra, and who had undergone ceremonial rights such as choula, upanayana and marriage under a different gotra and who had also performed the funeral

ceremonies of his natural father. In this connection he filed several petitions to Government in the years 1921 and 1924 praying for permission to take the said defendant 2 in adoption contrary to Government Order, Camp No., 1678 dated 29—10—1887. Thereupon, the Government refused to grant permission for taking such an adoption. Thereafter, he filed another application to Government on 28—11—1924, praying for permission to take in adoption his daughter's son defendant 2 since his original request was not granted. The Government, without taking into consideration the previous orders passed in this connection on former occasions and without looking into previous records, and basing their ground entirely on an allegation of fact not even alleged by the petitioner in any of his petitions and which never in fact occurred and could not in law or fact have occurred, have passed orders on 4—4—1925 to the effect that on the ground that defendant 1 has taken defendant 2 in adoption, defendant 2 is the reversionary heir of defendant 1 and, as such, he will be entitled to get the said Palyegar pension. All this the plaintiff became aware subsequently. All this is only a concoction and entirely false. This cannot in any way affect the rights of the plaintiff, nor it can be binding on him.

5. For all practical purposes, defendant 2 is held as having belonged to Manjarabad Palyegar family.

6. The plaintiff therefore petitioned the Government several times for the cancellation of the afore-said Government Order and establish the plaintiff's reversionary right; but to his last petition dated 4—9—1926, an endorsement was given on 12—10—26, which is appended hereto, stating that he has to establish in a competent court of law that the said adoption is invalid and that thereafter he should again file an application for further relief. The plaintiff, therefore, has filed this suit for a declaration of his right in the matter.

7. For the reasons enumerated in para 4 of the plaint above, it is to be held that defendant 1 has not taken defendant 2 in adoption and that though he has taken him in adoption, since said adoption would be as aganist law and Government order, it cannot in any way affect the plaintiff's reversionary right.

8. Cause of action:—The cause of action arose in Bangalore on 23—9—25 when the plaintiff became aware of the fact that defendant 1 has adopted defendant 2 and that the Government have passed an order accepting the said adoption in the matter of the continuation of political pension and on 13—10—1926 when the Government gave an endorsement to the plaintiff asking him to establish his right in a competent court of law.

9. Valuation:—The suit is valued at Rs. 103-2-0 being the damages and loss sustained in connection with the potitical pension which defendant 1 has been paid and a court-fee of Rs. 15 is paid for the declaration.

10. For service of notices, etc., on the plaintiff, his address is given above.

11. Prayer for judgment:—

The plaintiff prays for a decree being passed in his favour, declaring:—

(a) that defendant 1 has not taken defendant 2 in adoption, or

(b) that if the adoption has taken place, it is not valid in law and that it cannot affect the plaintiff's right and his future reversionary right to get the Palyegar pension; and it is further prayed that the defendants may be directed to pay to the plaintiff his court costs and current interest.

(Sd.) R. P. Koneti Naika.

(Sd.) B. V. Rama Rao

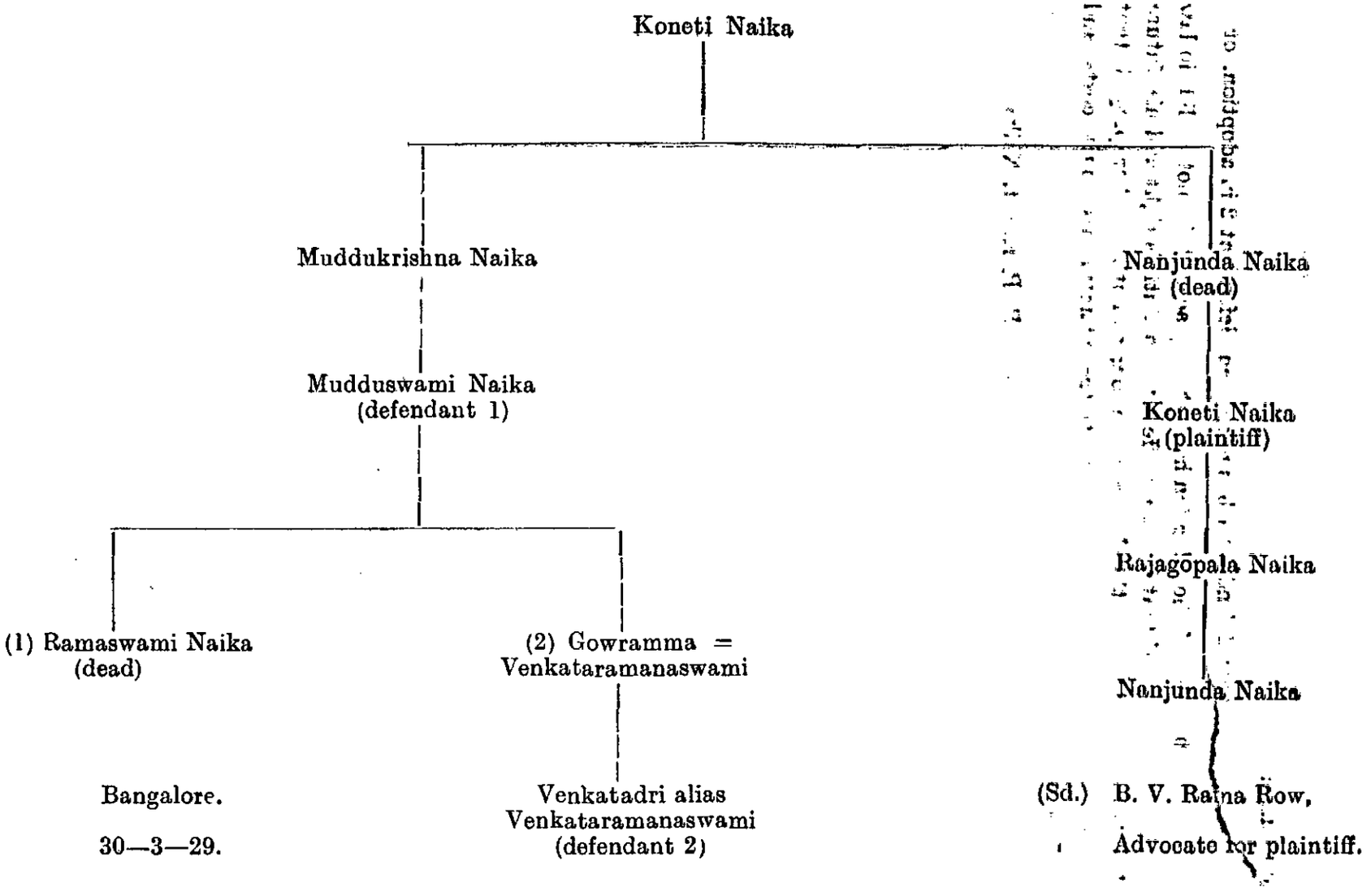
Advocate for plaintiff.

Bangalore.

30—3—29.

"Verified and signed."

Genealogical Tree,



Bangalore.

30—3—29.

(Sd.) B. V. Rama Row,

Advocate for plaintiff.

Written statement of the defendants.

Under Order VIII, Rule 1 of the Code of Civil Procedure.

The defendants beg to state as follows :—

1. The allegations in paras 1 to 3 are true except the allegation that after defendant 1's death, the political pension would be enjoyed by the plaintiff and his descendants.

2. Defendant 2 is defendant 1's daughter's son and as such would ultimately get the pension after defendant 1's wife and defendant 2's mother who are both alive.

3. The allegations in para 4 of the plaint are not true. The families of the plaintiff and defendant 1 have long been divided and they are living drawing their pensions separately and as there has been long-standing ill-will between the two, defendant 1 chose defendant 2 for adoption. Defendant 2 was only adopted by defendant 1 on 25—4—1919 before his marriage.

4. The allegation that chowla, upanayana, and marriage samaskaras were performed before adoption is not true, and even if it is true, it does not invalidate the adoption, as the parties are Sudras and for the same reason the adoption of a daughter's son is valid.

5. It is true that defendant 1 sent petitions to Government in the years 1921 and 1924 but they were sent not to seek permission to adopt defendant 2 but they were sent requesting the Government to recognise the adoption for purpose of continuing the political pension to defendant 2 after defendant 1's death.

6. The Government, after getting the opinion of several responsible officials and on deliberation, passed an order on 4—4—25 recognising the adoption of defendant 2 for the purpose of enjoying the political pension and the allegations that the Government proceedings and the order thereon are collusive and that the records are got up are absolutely false, malicious and uncalled for.

7. The allegations in para 6 of the plaint are not known to the defendants and must be strictly proved by the plaintiff.

8. The adoption of defendant 2 is not invalid on any ground whatsoever and defendant 2 is entitled to succeed defendant 1 not only to his personal properties but also to the political pension now enjoyed by him.

9. The suit is barred by time as it is filed more than 6 years after the adoption came to the knowledge of the plaintiff. The plaintiff full well knew the adoption at or about the time it was made and it is false that he

came to know of it only on 23—9—25. No cause of action accrued to the plaintiff on the dates mentioned in para 8 of the plaint.

10. The plaintiff is not entitled to question the decision of the Government for continuing the political pension and this Honourable Court has no jurisdiction to entertain such a prayer. The plaintiff is only entitled to question the factum and legality of adoption and nothing else.

11. The plaintiff has no cause of action against the defendants.

12. Wherefore, they pray that the suit be dismissed with costs.

1. (Sd.) Mudduswami Naika,
(in Kannada.)

2. (Sd.) V. Naik.

(Sd.) (not clear)
Pleader for defendants.

Bangalore.
16—6—1929.

Verified and signed."

The reply statement of the plaintiff, filed on 19—6—1929, is as follows:—

1. The allegations in paras 1 and 2 of the written statement are not true. After the death of defendant 1, the Palyegar pension according to Government order has to go permanently to the agnatic male heirs of defendant 1 and defendant 1 has no male issues. So in the matter of political pension which is being paid to defendant 1, the plaintiff himself is the reversionary heir to defendant 1. Defendant 1's wife and his daughter, defendant 2's mother, have accepted the said adoption which is invalid and they have been keeping quiet without starting any proceedings in this matter. Hence, the plaintiff is entitled to bring the present suit.

2. The allegation in para 3 of the statement that defendant 1 had taken defendant 2 in adoption on 25-4-1919 before his marriage is quite false. The allegations in para 4 of the plaint are true.

3. The allegations in para 4 of the statement are false. The plaintiff and the defendants are not Sudras but they belong to Kshatriya Caste of Surya Race and they are thus Dwijas being governed by the Hindu Sastras and being entitled to celebrate upanayanam, etc. For these reasons, as also for the reasons mentioned in paras 4 and 5 of the plaint, the adoption of defendant 2 is false and invalid.

4. The allegations in paras 5 and 6 of the statement are not true. Defendant 1 has filed an application to Government for permission to take an adoption.

5. The allegations in para 7 of the statement are false. These defendants are aware of all the proceedings which the plaintiff is conducting before the Government.

6. The allegations in para 8 of the statement cannot stand for the reasons mentioned in paras 4 and 5 of the plaint. Defendant 1 has not taken defendant 2 in adoption. Further, the said adoption is invalid. Defendant 2 is not entitled, according to law, to get the Palyegar pension which is being paid to defendant 1.

7. This suit is not barred by limitation as alleged in para 9 of the statement. All the allegations made in the said para are false. The cause of action mentioned by the plaintiff is correct.

8. The plaintiff has brought this suit to hold that the said adoption is false and is invalid. Thereafter, the plaintiff will take such action as is necessary to have the Government order regarding political pension modified.

9. All the other allegations in the defendants' statement contrary to those in the plaint and this reply are false. It is therefore prayed that a decree may be passed in terms of the plaint.

(Sd.) R. P. Koneti Naika.

"Verified and signed."

IN THE COURT OF THE FIRST MUNSIFF, BANGALORE.

Original Suit No. 519 of 1928—29.

Dated this the 5th day of September 1932.

PRESENT:

K. V. Shama Rao, Esquire, B.A., LL.B.,
First Munsiff.

Plaintiff:—R. P. Koneti Naika.

Vs.

Defendants:—1. Muddusami Naika alias Kannasami Naika.

2. Venkatadri Naika alias Venkataramanaswami Naika.

JUDGMENT.

I. Suit for a declaration that the adoption of defendant 2 by defendant 1 is not true and that it is invalid even if true and that defendant 2 does not thereby get over right to the political pension that is now being paid to defendant 1 and that plaintiff has a reversionary right to the same and for costs of the suit.

II. The suit was filed on 30—3—29 and the written statement of the defendants was filed on 11—6—1929. The reply statement of the plaintiff was filed on 19—6—1929. The suit came on for settlement of issues on 20—6—1929 and the following issues were settled :—

(1) Was defendant 2 adopted by defendant 1 on 25—4—1919 ?

(2) If so, is the adoption invalid as alleged by plaintiff ?

(3) Is the suit barred by time as pleaded by defendants ?

(4) Is plaintiff entitled to a declaration that he does not lose his right to the pension by virtue of the above adoption ?

III. The suit was posted for evidence to 12—12—29 and by several adjournments, it was lastly posted to 13—7—1932. The arguments were heard on 22—8—32. The plaintiff was represented by Mr. B. V. Rama Rao and the defendants were represented by Mr. D. R. Ramaswamy Iyengar.

IV. List of witnesses examined and the list of documents admitted in evidence on both sides are separately filed with the record.

V. The plaintiff has filed this suit for a declaration that the adoption of defendant 2 by defendant 1 is not true and that it is invalid even if true and that defendant 2 does not thereby get any right to the political pension that is now being paid to defendant 1. The allegations in the plaint are as follows :—

Defendant 1 is the son of an elder brother of the father of the plaintiff. Defendant 2 is a son of the daughter of defendant 1. The plaintiff and defendant 1 are both descendants of the Palyegars of Rayadurga. Defendant 2 is a descendant of the Palyegars of Manjarabad. About December 1918, defendant 1's only son died without any issues. Defendant 1 is his only heir. The plaintiff claims to be the nearest reversioner to the estate of defendant 1. The plaintiff alleges that, with a view to defeat his claims and defraud him, defendant 1 applied to the Government several times for sanction to adopt defendant 2 as his son. Finally, Government sanctioned the adoption in their order dated 4—4—1925. Plaintiff alleges that the adoption is false and that even if true it is invalid in law under the circumstances narrated in para 4 of the plaint. The plaintiff therefore states that this adoption does not bind him and has, therefore, filed this suit for the reliefs afore-said.

VI. The defendants plead that defendant 4 was validly adopted by defendant 1 on 25—2—1919 before his marriage. They further plead that the Government have recognised the adoption and that the plaintiff's allegations in the plaint are all false. The defendants also say that that suit is barred by time as the suit has been filed more than 6 years after the adoption came to the knowledge of the plaintiff.

VII. The most important point for consideration; therefore, is whether the adoption of defendant 2 by defendant 1 is true and valid.

VIII. Defendant 1 has examined himself and three witnesses to prove the alleged adoption. D. W. 1 is defendant 1 himself. He says that the alleged adoption took place on 25—4—1919. At the time of the adoption, among his relatives Chicka Krishnappa Naika and his wife are said to have been present. Their evidence would have been very material but they have not been examined at all. The others present then were the late Mr. Krishnaswami Iyengar, Narasinga Rao and others. This Mr. A. Krishnswami Iyengar is dead. Narasinga Rao has been admittedly defendant 1's agent for a long time. He does not remember who else was then present. He refers to a mahazar then written which is marked Exhibit I. Except the alleged purohit and his own agent Narasinga Rao who has written Exhibit I, none of the other important attestors to it have been examined. No reason is assigned for their non-examination. The adoption, he says, took place before defendant 2's marriage. He does not know what all was done at the time of the adoption ceremony. He cannot give out the date on which the adoption is alleged to have taken place. He also states that even after adoption, defendant 1 is performing the annual ceremonies of his natural father. This is quite improbable if the adoption is true.

IX. D.W.2 is Nanjunda Sastry, the alleged purohit, who officiated at the time of the adoption. He states that he officiated at that time and that he then attested Exhibit I the mahazar. He states that the adoption took place 10 or 11 years ago in a house in Gundopanth Street, in which defendant 1 was then living. Defendant 1 states that the adoption was in Kesava Iyengar's house in Old Tharagupet. Fifty persons are alleged to have been present then. One Divakar Naika is said to have then come. Even he has not been examined. This witness must have been barely 22 or 23 years old when the alleged adoption took place. The parties would have evidently got hold of an older purohit and not a young boy for officiating at one important function as that of an adoption.

X. D.W.3 is Narasinga Rao. He speaks to all the facts alleged in the written statement. But much reliance cannot be placed on his evidence as he is even now defendant 1's agent and as the plaintiff has no longer retained him as his agent. His testimony is much interested and cannot be relied upon.

XI. D.W.4 is Mr. Bheemasena Rao. He says that he was present at the time of the adoption, but he has not attested the alleged mahazar Exhibit I that was drawn up at the time of the adoption. He was an important person present and his signature would certainly have been taken to Exhibit I, if he was then present.

XII. This is all the oral evidence adduced by the defendants regarding the adoption. The person who is alleged to have given the boy in adoption has been mentioned as a witness in defendant 1's witness list but he was not summoned again nor was he examined. The other attestors of Exhibit I have not been summoned. The evidence is very unsatisfactory and meagre to rely upon and conclude that the adoption is true.

XIII. It was admitted, in the course of the arguments by the advocate for the defendants, that Exhibit I was a sort of a mahazar. Of the persons who have attested it except Narasinga Rao (defendant's agent) and their own purohit Nanjunda Sastri, the other persons have not been examined. The signature of Mr. Krishnaswami Iyengar to it has not been proved. None who is acquainted with his signature has been examined. That being a very important document would have been produced with the written statement, if it was available. Exhibit I was not produced till after the issues were framed. Mr. Bheemasena Rao (D. W. 4) is said to have been present at the time of the adoption. He has not signed this Exhibit I. He has not even been asked about this Exhibit I. Exhibit I was neither been produced with nor is it even referred to in any of the petitions sent by the defendants to Government to sanction and recognise the adoption. Its existence is made open only in 1929 and never before. For these reasons, I am unable to attach any value for this Exhibit I. If such a document was intended to be then written, nothing prevented the parties from getting a regular adoption-deed executed. I am not prepared to attach much value to this document.

XIV. The several petitions sent by defendant 1 to Government clearly prove that the fact that there was the adoption in 1919 is not true. Exhibit A dated 4—3—21 is the first petition sent by defendant 1 to Government. This is immediately after the alleged adoption. In this defendant 1 states "It is, therefore, my humble wish that I should take in adoption my widowed daughter's son Venkatadri Naika." He, therefore, seeks sanction of Government for the adoption. Exhibit B is his next petition to Government and is dated 3—4—24. In this, defendant 1 has stated as follows:—

"In my petition dated 4—3—21 I had requested the Government to give me permission to adopt my daughter's son Venkatadri Naika." In Exhibit C dated 22—8—24 again nothing is said about there having been an adoption already long back. On the other hand, in it defendant 1 says that even his daughter-in-law had consented to his adopting defendant 2 and therefore seeks permission to adopt his daughter's son Venkatadri Naika alias Venkataramanaswami Naika. Exhibit D is another petition sent by defendant 1 to Government and is dated 28—11—24. In this, defendant 1 states in unequivocal terms "I, therefore, wish to adopt my daughter's son Venkatadri Naika" and concludes as follows:—

"I, therefore, pray that you will permit me to adopt my daughter's son." It is only in his petition Exhibit P dated 20—2—1915 that he refers to an alleged adoption having taken place long back, i.e., on 25—4—1919. This is the first time since 1919 that defendant 1 ever refers to the alleged adoption. It is very difficult to say why he said in this petition that there has been an adoption already. The allegations and prayers in the previous petitions Exhibits A to D show that this fact of adoption in 1919 is false and has been referred to only in Exhibit P. Why it was so mentioned it is not clear. This fact that there was said to be an adoption so long back as 1919

must have very much influenced the Government in passing their final order sanctioning the adoption. It looks to me that the allegation regarding the fact of adoption mentioned in Exhibit P is false and that there was no adoption in 1919. I am supported by the clear and unequivocal statements made in Exhibits A to D. In none of these petitions, not even in Exhibit P, is there any reference to Exhibit I. Exhibit I has not even been produced with Exhibit P.

XV. It was argued that defendant 1 does not know English and he cannot, therefore, be held responsible for the language used in Exhibits A to D. That is not the case of defendant 1 himself. He admits in his deposition that all these petitions were drafted on the facts given by him.

XVI. The fact that the adoption took place in 1919 is false is also proved by the Exhibit H. It is an invitation card sent for the marriage of defendant 2. The marriage, it is admitted, was after the alleged adoption. The marriage, according to Exhibit H, was on 8—5—1919. Even Narasinga Rao has stated that Exhibit H may be an invitation sent for defendant 2's marriage. In this, defendant 2 is described as the son of Venkatadri Naika, Palyegar of Manjarabad, and not as the adopted son of defendant 1. If the adoption is true, plaintiff's marriage would be with his own cousin which is not at all allowed among Hindus.

XVII. For these reasons, I hold that the alleged adoption of defendant 2 by defendant 1 on 25—4—1919 is not proved to be true. This is my finding on issue 1. In view of this finding, it is unnecessary to consider issue 2.

XVIII. Issue 3 framed in the case is whether this suit is barred by limitation. Under Article 118 of the Limitation Regulation, a suit to declare that an alleged adoption is invalid or never in fact took place has to be filed within six years from the date when the alleged adoption became known to the plaintiff. There is no evidence that the alleged adoption was known at any time before the final order of Government Exhibit E dated 4—4—1925. The suit has been in 1929 long before the period of limitation. I, therefore, hold that the suit is not barred by limitation. This is my finding on issue 3.

XIX. Issue 4 framed in the case whether the plaintiff is entitled to a declaration that he does not lose his rights to the pension by virtue of the above adoption. I do not think that any such declaration can be given. But, at any rate, as I have held that the adoption is not proved to be true, there is no necessity to consider this issue in detail.

XX. In the result, the plaintiff's suit is decreed for the declaration that the adoption of defendant 2 by defendant 1 is not true, together with costs of this suit. Pleader's fees Rs. 20.

Pronounced in open court.

(Sd.) K. V. Shama Rao,
First Munsiff.
5—9—22

List of witnesses examined for plaintiff.

1. L. Srinivasa Rao.
2. B. J. Kandasami Raja.
3. Srikanta Sastri.
4. Koneti Naika (plaintiff).

List of witnesses examined for defendants.

1. Muddusami Naika.
2. Nanjunda Sastri.
3. Narasinga Rao.
4. M. Bheemasena Rao.

List of documents admitted in evidence for plaintiff.

Distinguishing letter or number.	Description of documents.	Date of admission.
Exhibit A	Petition dated 4—3—1921 sent by Muddusami Naika addressed to the Dewan of Mysore ...	12—12—29
A(1)	Signature of Muddusami Naika in Exhibit A ...	21—7—30
B	Another petition dated 3—4—24 sent by Muddusami Naika to the Chief Secretary to the Government of Mysore.	12—12—29
B(1)	Signature of Muddusami Naika in Exhibit B ...	21—7—30
C	Another petition dated 22—8—1924 along with genealogical tree addressed to the Dewan of Myore A. R. Banerji Esquire ...	12—12—29
C(1)	Signature of Muddusmai Naika in Exhibit C	21—7—30

Distinguishing letter or number.	Description of documents.	Date of admission.
Exhibit D	Another application dated 28—11—24 sent by Muddusami Naika addressed to the same Dewan of Mysore ...	12—12—29
,, D(1)	Signature of Muddusami Naika in Exhibit D ...	21—7—30
,, E	Copy of the proceedings of the Government of His Highness the Maharaja of Mysore dated 4—4—1925 in the matter of adoption of M. V. Venkatadri Naika alias Venkataramanaswami Naika by Muddusami Naika.	17—2—31
,, E(1)	Certified copy of the above proceedings ...	13—7—32
,, F	Certified copy of the Government proceedings dated 2—7—1924 sent to R. P. Muddusami Naika ...	16—2—31
,, G	Certified copy of the endorsement dated 27—8—1921 granted to Muddusami Naika by the Government of H. H. the Maharaja of Mysore ...	do
,, H	Invitation card got printed for the marriage of Venkatadri Naika ...	29—9—31
,, J	Certified copy of the proceedings of the Dewan and order passed by him thereon regarding the disposal of the pension drawn by Gangammal, deceased ...	do
,, K	Endorsement dated 12—10—26 granted to Mr. R. P. Koneti Naika from the Government of His Highness the Maharaja of Mysore ...	13—7—32
,, L	Certified copy of endorsement dated 3—10—1902 issued to Kesavamma from the Mysore Dewan's office ...	do

Distinguishing letter or number.	Description of documents.	Date of admission.
Exhibit M	Certified copy of the proceedings and order of the Government of His Highness the Maharaja of Mysore dated 11—12—32 ...	8—8—32
N	Certified copy of the application sent by R. P. Koneti Naika dated 8—4—1926 to the Dewan of Mysore, Bangalore. ...	...
O	Certified copy of the petition dated 4—9—26 sent by R. P. Koneti Naika to the Dewan of Mysore, Bangalore.	8—8—32
P	Certified copy of the petition dated 20—2—25 by Muddusami Naika to the Dewan of Mysore ...	...

List of documents admitted in evidence for respondent.

Exhibit I	Mahazar made and signed by Nanjunda Sastri and others dated 25-4-1919 while adopting defendant 2 by defendant 1 ...	21—7—30

DECREE.

Suit for a declaration that the adoption of defendant 2 by defendant 1 is not true and valid and that defendant 2 will not by virtue of the said adoption derive any right to the political pension which defendant 1 is getting and that the plaintiff be declard to be the reversionary heir of defendant 1 to get the said political pension of defendant 1 and to get costs and current interest from the defendants. The plaint was filed on 30-3-29.

This suit coming on for final disposal this day before K.V. Shama Rao, Esq. B.A.,LL.B., the First Munsiff, in the presence of Mr. B. V. Rama Rao for plaintiff and of Mr. P. Rajarathnam for defendants, it is ordered and declared, after contest, that the adoption of defendant 2 by defendant 1 is not true and that the defendants do pay to the plaintiff the costs in this suit viz., Rs. 65 as shown below.

(Sd.) K. V. Shama Rao,

First Munsiff.

5—9—32

Memo of costs.

	By the plaintiff	By the defendant
	Rs. a. p.	Rs. a. p.
Total	65 0 0	16 12 0

Appeal Memo of the Lower Appellate Court.

IN THE COURT OF THE DISTRICT JUDGE, BANGALORE.

Regular Appeal No. 137 of 1932—33.

Appellants :—1. Mudduswami Naika.

2. Venkatadri Naika alias Venkataramanaswami Naika.

Vs.

Respondent :—R. P. Koneti Naika.

Under Section 96 of Code of Civil Procedure, the appellants above-named prefer this appeal against the judgment and decree passed by the First Munsiff, Bangalore, in Original Suit No. 519 of 28—29 on the following among other grounds :—

1. The learned Munsiff erred in declaring that the adoption of defendant 2 by defendant 1 was not true.

2. The lower court has not correctly appreciated the evidence of the respectable witnesses examined on behalf of the defendants.

3. The lower court ought to have acted on the disinterested testimony of the defendants' witnesses who were present at the adoption.

4. The lower court has misconstrued Exhibits A to D and drawn wrong inferences adverse to defendants.

5. The lower court has not properly appreciated the significance and effect of Exhibit I, which clearly supports the adoption and which has been proved.

6. The lower court has not attached due weight to the fact that the Government of Mysore has recognised the adoption of defendant 2 by defendant 1.

7. The lower court erred in holding without any reason whatsoever that the evidence on behalf of the defendants was "meagre and unsatisfactory".

8. The lower court erred in not taking into consideration that a number of witnesses on behalf of the defendants were omitted to be examined at the suggestion of the court itself.

9. The lower court ought to have held upon the evidence on record that the adoption was proved beyond doubt.

10. The lower court erred in not holding that the plaintiff's suit was in any event barred by limitation.

11. The decision of the lower court is otherwise opposed to law, the weight of evidence and the probabilities of the case.

A court-fee of rupees fifteen is paid hereon.

(Sd.) G. S. Doraswami Iyer,
Advocate for appellants.

Bangalore.
17th October 1932.

IN THE COURT OF THE ADDITIONAL DISTRICT JUDGE, BANGALORE.

Regular Appeal No. 137 of 1932—33.

(On the file of the District Judge, Bangalore).

Bangalore, dated the 26th day of August 1935.

PRESENT :

S. Venkataranga Iyengar, B.A., LL.M.,
Additional District Judge, Bangalore.

Appellants :—1. Muddusami Naika, Palyegar of Rayadurga, No. 190, 1st Main Road, Visvesvarapuram Extension, Bangalore City.

2. Venkatadri Naika alias Venkataramanaswami Naika, Inspector of Police, B Division, Visvesvarapuram, Bangalore City.
(Defendants'.) (Mr. G. S. Doraswamy Iyer).

Vs.

Respondent :—R. P. Koneti Naika, Palyegar of Rayadurga, No. 149/150, Cottonpet, Bangalore City. (Plaintiff) (Mr. B. V. Rama Rao).

The suit was brought on 30—3—1929 in the Court of the First Munsiff of Bangalore in Original Suit No. 519 of 1928—29 for a declaration

that the adoption of defendant 2 by defendant 1 was not true and that it was invalid even if true and that defendant 2 had not thereby any right to the political pension that was now being paid to defendant 1 and that the plaintiff had a reversionary right to the same and for costs of the suit. The defendants pleaded that defendant 2 was validly adopted by defendant 1 before his marriage, and that the Government had recognised the adoption and they denied the plaint allegations. The defendants further contended that the suit was barred by time as the suit had been filed 6 years after the adoption came to the knowledge of the plaintiff.

The issues were :—

(1) Was defendant 2 adopted by defendant 1 on 25—4—1919 ?

(2) If so, is the adoption invalid as alleged by plaintiff ?

(3) Is the suit barred by time as pleaded by defendants ?

(4) Is the plaintiff entitled to a declaration that he does not lose his right to the pension by virtue of the above adoption ?

In the court of first instance, on 5—9—1932, the plaintiff's suit was decreed for a declaration that the adoption of defendant 2 by defendant 1 was not true, together with costs of the suit.

The appeal was filed on 17—10—1932. This appeal coming on for final hearing on the 24th day of August 1935, the court pronounced the following judgment :—

Judgment.

1. The suit out of which this appeal has arisen was one brought for a declaration that the alleged adoption of defendant 2 by defendant 1 is not true and that even if true is not valid in law and that the said adoption cannot affect the plaintiff's right as a reversioner to get the Palyegar pension which defendant 1 is now getting after the death of defendant 1.

2. The parties are Palyegars of Rayadurga Palyegar family. Defendant 1 is the plaintiff's paternal uncle's son. Defendant 2, who is alleged to have been adopted by defendant 1, is the latter's daughter's son. Defendant 1's only son died in about December 1918.

3. Plaintiff's case is that the Government in their order dated 4th April 1925, which is marked as Exhibit E, recognised the adoption of defendant 2 by defendant 1 for the purpose of continuing the Palyegar pension of defendant 1 ; that the said adoption is not true and even if true is not valid in law and that the plaintiff became aware of the alleged adoption only when he came to know of the Government order Exhibit E of 23rd September 1925.

3. The case for the defendants is that on 25th April 1919 defendant 2 was adopted by defendant 1 and that the adoption is true and valid in law and that the plaintiff's suit is barred by time as it is filed more than six years after the adoption came to the knowledge of the plaintiff.

4. The learned Munsiff held that the alleged adoption is not proved to be true and that the plaintiff's suit was not barred by limitation. In view of the fact that he held that the adoption was not true, he did not record any finding on the validity of the adoption as he did not consider it to be necessary to record any finding on that issue. In the result, he passed a decree in favour of the plaintiff for a declaration that the adoption of defendant 2 by defendant 1 is not true, together with costs. It is against that decision that the defendants have filed this appeal.

5. The first point for determination in this appeal is whether the alleged adoption of defendant 2 by defendant 1 is true. I am satisfied from the evidence of defendant 1, D. W. 2 Nanjunda Sastri, the purohit who officiated as priest at the time of the adoption, D.W. 3 Narasinga Rao and D.W.4 Bheemasena Rao who were present at the time of the adoption and also from Exhibit I which is written at the time of the adoption and which corroborated the evidence of D. Ws. 1 to 4 that defendant 1 adopted defendant 2 on 25th April 1919. I see no reason to disbelieve the evidence of D. Ws. 1 to 4 or the genuineness of Exhibit I. The reasons given by the learned Munsiff for disbelieving their evidence and for holding that Exhibit I is a suspicious document do not appear to me to be convincing. The evidence of D. W. 2 Nanjunda Sastri is discredited by the learned Munsiff on the ground that he was a young man of 22 or 23 years of age at the time of the alleged adoption and that it is not likely that such a young person would have been selected to officiate as a purobit at such an important function as that of an adoption. I do not think I can agree with that observation of the learned Munsiff. In the first place, Nanjunda Sastry who was 22 or 23 years of age at that time cannot be said to be a young boy incompetent to officiate as a priest at such functions. P. W. 3 Srikanta Sastri who is examined by the plaintiff as his witness has admitted that Nanjunda Sastri goes to defendant's house to officiate as priest. It is therefore not unlikely that Nanjunda Sastri officiated as priest at the time of the alleged adoption. No doubt, P. W. 3 Srikanta Sastri states that he is the permanent priest of all the Palyegars inclusive of defendant 1's family and that Nanjunda Sastri is not their permanent priest. Even assuming that that evidence of P. W. 3 is true, it cannot necessarily follow that Nanjunda Sastri could not have officiated as priest at that function. The other ground on which the learned Munsiff had discredited the evidence of D. W. 2 is that he has deposed that the adoption took place in the Gundopantha Street, in the house occupied by defendant 1, while the evidence of defendant 1 is that it took place in the house belonging to one Kesavaiengar in Old Tharagupet in which defendant I was living at that time. I cannot see how there could be any discrepancy between the evidence of defendant 1 and D. W. 2 as regards the house, simply because one says it is in Old Taragupet and the other says it is in Gundopantha Street, unless there is evidence

to show that the two streets are not close to each other and that the house in which defendant 1 was living could not open to both Old Taragupet as well as to Gundopantha Street. It was argued for the respondent that no weight can be attached to the evidence of D.W.2 as he is interested in defendant 1 being his purohit. I do not think I can agree with that argument. The mere fact that sometimes he goes and officiates as purohit in defendant 1's family does not make him an interested witness. The learned Munsiff had discredited the evidence of D.W.3 Narasinga Rao on the ground that he speaks to all the facts alleged in the written statement, that he is even now defendant 1's agent and that the plaintiff has no longer retained him as his agent. I do not think I can agree with those reasons given by the learned Munsiff. Narasinga Rao is not only an agent of defendant 1 but is also an agent of several Palyegars' families. His father and grand-father have been acting as agents of Palyegars. As such, there is no reason why he should be specially interested in defendant 1. It may be that he has ceased to be the agent of the plaintiff. But that fact by itself would not be enough to discredit the evidence of D.W.3 especially in view of the fact that he is a person of some status. He retired as the Manager of the Bangalore City Municipal Office. The evidence of D.W.4 Mr. Bheemasena Rao has been discredited by the learned Munsiff on the ground that he has not attested Exhibit I. I do not think that is a good reason. It may be that several persons may be present at the time of a transaction and that only a few of them may attest a document that may be executed on that occasion. The mere fact that Mr. Bheemasena Rao did not attest Exhibit I cannot go against his credibility. He is a respectable gentleman being an Assistant Professor at the Central College, Bangalore, and is an absolutely disinterested witness and I see no reason why his evidence should be disbelieved. As a matter of fact, the plaintiff's advocate has not chosen to cross-examine that witness. That itself shows that nothing can be said against the credibility of that witness.

6. In para 13 of his judgment, the learned Munsiff has disposed of Exhibit I with an observation that he is not prepared to attach much value to the document for the following reasons :—

(i) Of the attestors to that document, besides defendant's agent Narasinga Rao and their own purohit Nanjunda Sastri, no other persons have been examined ;

(ii) The signature of Mr. Krishnaswamy Iyengar to Exhibit I has not been proved and no one who is acquainted with his signature has been examined ;

(iii) Exhibit I being a very important document it ought to have been produced with the written statement if it was available and it was not produced till after the issues were framed ;

(iv) Mr. Bheemasena Rao who is said to have been present at the time of the adoption has not signed it and has not even been asked about it ; and

(v) Exhibit I was neither produced with nor was referred to in any of the petitions sent by the defendants to Government to sanction and recognise the adoption.

8. I have carefully gone through these reasons given by the learned Munsiff for suspecting the genuineness of Exhibit I and I do not find much substance in any of those reasons. It is not necessary to prove the genuineness of a document like Exhibit I by examining all the signatories to it. The defendants thought that it was enough to examine some of the signatories to prove its genuineness and so they were content with the examination of D. Ws. 2 and 3. There was no need for the defendants to prove the signature of Mr. Krishnaswamy Iyengar to Exhibit I by summoning any person acquainted with his signature, as D. W. 2 has sworn to the fact that Mr. Krishnaswamy Iyengar was present at the time of the adoption and he affixed his signature to Exhibit I and D. W. 3 Mr. Narasinga Rao has also sworn to the fact that Mr. Krishnaswamy Iyengar was one of the persons present at the time of the adoption. The mere fact that D. W. 4 Mr. Bheemasena Rao has not attested Exhibit I does not lead to any inference that Exhibit I could not be genuine. As already observed by me, it is only a few people out of many present at the time of transaction that may be asked to attest a document executed at that time. The fact that Exhibit I was not produced with or referred to in any of the applications made by defendant 1 to Government to sanction the adoption cannot go against the defendants, because Exhibit I was not a regular deed of adoption and there was no necessity for its production before the Government. It would have been produced before the Government if the defendants had been called upon to adduce evidence regarding the adoption. The Government did not call upon the defendants to do anything of that kind. There is no force in the observation that Exhibit I ought to have been produced along with the written statement. It was not a document of title and it was only a document relied upon by the defendants as evidence in the case and that too as evidence to corroborate the oral testimony of their witnesses and so they did not find any necessity to produce it with the written statement and produced it after the issues were settled. If the defendants really wanted to manufacture a document like Exhibit I in order to create evidence for this suit, it is highly improbable that they would have taken to their head to cook up the signature of a gentleman like Mr. A. Krishnaswamy Iyengar who was Revenue Sub-Division Officer of Doddaballapur Sub-Division and who is now dead. I am inclined to believe that Exhibit I is a genuine document and that it came into existence on 25th April 1919 when the adoption took place.

9. As against the evidence of D. Ws. 1 to 4 and Exhibit I, the plaintiff has not adduced any satisfactory evidence to prove that as a matter of fact no such adoption took place and that no such adoption could have taken place. Admittedly, the plaintiff was at that time residing at Madura and so he could not have been aware of the adoption if it had taken place. In

view of the fact that there has been long-standing hostility between the plaintiff and defendant 1, it is very unlikely that defendant 1 would have invited him to attend the function. His evidence that he was not sent any invitation for that functfon cannot give rise to any necessary inference that the adoption could not have taken place. P. W. 3 Srikanta Sastri, who is the purohit of the Palyegar families, does not say in his evidence that the adoption did not take place. It is very curious that the plaintiff who summoned that witness has not chosen to ask him anything about that fact. The evidence of P. W. 2 Kandaswamy Raja that he does not know if defendant 1 has adopted defendant 2 and that he had not received any invitation for the adoption does not necessarily prove that the adoption could not have taken place. For various reasons, defendant 1 may not have chosen to send an invitation to P. W. 2. Defendant 1 has not been specifically asked in his evidence whether he sent an invitation to P. W. 2 and the reason for not sending any invitation to him.

10. In order to arrive at a finding that the alleged adoption could not be true, the learned Munsiff lays much stress on the fact that in the several petitions Exhibits A to D sent to Government by defendant 1 long after the date of the alleged adoption defendant 1 has sought for permission of the Government to adopt defendant 2 and has not mentioned the fact that he had already adopted defendant 2 on 25th April 1919. Though that circumstance at the first blush may appear to improbablise the theory that adoption took place on 25th April 1919, on a careful consideration it will be seen that it would not improbablise that theory. Defendant 1 no doubt in his evidence explains that he does not know English and that he did not know what had been written in those petitions. That is an explanation which is not acceptable. I am inclined to think that defendant 1 did not mention in Exhibits A to D about the adoption having taken place already on 25th April 1919, because his object in filing those petitions was to secure to defendant 2 the political pension which defendant 1 was getting and probably, whether rightly or wrongly, defendant 1 thought that if it be disclosed in those petitions that the adoption had already taken place, the Government may find fault with him for not having taken their previous sanction to the adoption and thus may not recognise the adoption and allow the pension to be continued to defendant 2 after defendant 1's death. That appears to me to be the probable reason for defendant 1 not disclosing in Exhibits A to D that the adoption had already taken place. When on his applications Exhibits A to D the Government did not pass favourable orders, defendant 1 had no other alternative but to disclose to the Government as a means of last resort the fact that the adoption had as a matter of fact taken place on 25th April 1919 and so defendant 1 sent a petition to Government on 20th February 1925 of which Exhibit P is a certified copy wherein he disclosed the fact that he had already adopted defendant 2 on 25th April 1919. Probably, defendant 1 was ill-advised in not referring to the factum of adoption on 25th April 1919 in his petitions Exhibits A to D and he acted wisely in disclosing the factum of adoption in his petition of

which Exhibit P is a certified copy, as is clear the fact that after he made that disclosure the Government readily granted his request. That is how I say that Exhibits A to D cannot improbablise the fact that defendant 2 was adopted by defendant 1 on 25th April 1019.

11. The fact that a formal adoption-deed was not executed and got registered as also the fact that in the marriage invitation Exhibit H defendant 2 has not been described as the adopted son of defendant 1 cannot in any way improbablise the fact of adoption, if it be remembered as already stated by me that defendant 1 intended when he sent petitions Exhibits A to D not to disclose the fact of adoption to Government and to keep that fact secret as far as possble.

12. I do not understand the reasoning of the learned Munsiff that if the adoption were true defendant 2's marriage would be with his own cousin which is not at all allowed among the Hindus. It is seen from the evidence that the girl who was married to defendant 2 was plaintiff's wife's sister's daughter. I cannot understand how she could be a cousin of defendant 2 if the adoption were true. Plaintiff's father-in-law was not an agnate of defendant 1 and so there was no prohibition for defendant 1's son to marry plaintiff's wife's sister's daughter.

13. For the above reasons. I cannot agree with the finding of the learned Munsiff on issue 1. My finding on that issue is that defendant 2 was adopted by defendant 1 on 25th April 1919.

14. The next point for consideration is whether the adoption is invalid as alleged by the plaintiff. The grounds urged by the plaintiff in para 4 of his plaint against the validity of the adoption are that it is contrary to Government Order No. 1678 dated 29th October 1887 and that defendant 2 was incompetent to be adopted as he had performed his natural father's obsequies and his chowla, upanayanam and marriage had taken place in his natural father's gothra. The standing order of the Government referred to in the plaint is Exhibit J. I do not find anything in that order which would render the adoption of defendant 2 invalid. What is urged for the respondent is that under para 9 that Government Order defendant 1 had to obtain the previous sanction of the Government for the adoption and that defendant 1 has to adopt the nearest of kin and those requirements are not fulfilled in the present case. I cannot agree with that argument because I find that para 9 refers only to an adoption by a widow. The present case is governed by para 8 of that Government Order and that para does not in any way impose a condition prior to the adoption the sanction of Government is necessary.

15. In order to prove that Palyegars are Kshatriyas, the plaintiff relies on the evidence of himself and his witnesses P. Ws. 2 and 3. As against that evidence, there is the evidence of defendant 1 and D. Ws. 2 and 3 to the effect that they are not Dwijas. I am inclined to believe the evidence of

defendant 1 and his witnesses in that matter in preference to that of the plaintiff and his witnesses, because I find in Volume III of the Ethnological Survey of Mysore by Mr. H. V. Nanjundiah that Palyegars are Bedas by caste. In that connection, I may also refer to the Mysore Gazetteer, edited by C. Hayavadana Rao, Volume 1, page 213, where under the head 'Beda' it is stated as follows :—

"They sometimes call themselves Palyegars," because some of the old Palyegar's families belong to this caste." In the present case, the parties are not Dwijas. Marriage is the only samskara prescribed in the case of persons who are not Dwijas and so marriage of the boy in his natural family can be the only legal impediment for his adoption. In the present case, there was no such legal impediment inasmuch as defendant 2's marriage took place after his adoption as is clear from Exhibit H. It is therefore clear that the adoption of defendant 2 is not invalid. In the case of persons who are not Dwijas, there is no restriction as to the age of the adopted boy at the time of adoption.

15. It was argued for the respondent that the evidence of D. W. 4 Mr. Bheemasena Rao shows that there was no actual giving of the boy in adoption by the mother of the adopted boy to defendant 1 and so the adoption could not be valid. I do not think I can agree with that agrument. The evidence of D. W. 2 Nanjunda Sastri on the point is as follows :—

"Defendant 1 and his wife and defendant 2 and his paternal grand-father and defendant 2's mother Gowrammanni were all seated there. Defendant 2's paternal grand-father and Gowrammanni gave defendant 2 in adoption." D. W. 3 Narasinga Rao has deposed as follows :—

"The paternal grand-father of defendant 2 and defendant 2's mother gave away the boy to defendant 1 and his wife according to Sastras." So, then it is clear from the evidence of D. Ws. 2 and 3 that there was actual giving and receiving of the boy in adoption and that defendant 2's mother actually gave the boy and defendant 1 received the boy in adoption. Defendant 2's paternal grand-father was also present at the time and was seated with defendant 2's mother. Probably, D. W. 4 Mr. Beemasena Rao who was only an invitee for the function of adoption may not have so closely observed as to who it was that gave the boy in adoption to defendant 1. Moreover, he is giving evidence regarding a fact that took place 12 years before the date of his evidence and he cannot be expected at such a distance of time to exactly remember what took place on that occasion. Moreover, if the adopted boy were a young child, the actual giving and receiving of the boy in adoption would be very graphic and would attract the attention of those assembled there, as in such cases the boy would be physically taken and put into the lap of the adoptive father by the natural father or mother. In the present case, the adopted boy, viz., defendant 2 was a grown-up adult and so there could not have been the possibility of his being

put into the lap of the adoptive father. That is how D. W. 4 Mr. Bheemasena Rao may have missed observing the actual giving of the boy by defendant 2's mother in adoption to defendant 1. As already observed by me, there is the evidence of D. Ws. 2 and 3 to prove the actual giving of the boy by defendant 2's mother and the actual receiving by defendant 1.

16. For the above reasons, my finding on issue 2 is that the adoption is valid. In view of my findings on issues 1 and 2, there is no need to record my findings on the other issues in the suit as the plaintiff's suit must be dismissed.

17. In the result, this appeal is allowed, the decree of the lower court is reversed and the plaintiff's suit is dismissed with costs throughout. Advocate's fee Rs. 25.

Dictated to the short-hand writer and pronounced in open court.

(Sd.) S. Venkataranga Iyengar,
Additional District Judge.
26—8—35.

Decree.

"The appellants (defendants) above-named appeal to the District Judge's Court at Bangalore from the decree of the First Munsiff's Court, Bangalore, in Original Suit No. 519 of 1928—29 dated the 5th day of September 1932 for the following among other reasons, namely :—

1. The learned Munsiff erred in declaring that the adoption of defendant 2 by defendant 1 was not true.

2. The lower court has not correctly appreciated the evidence of the respectable witnesses examined on behalf of the defendants, etc.

Declaratory suit. Hence, a court-fee of Rs. 15 is paid.

This appeal coming on for hearing on the 24th day of August 1935 before S. Venkataranga Iyengar, Esquire, B.A., LL.M., Additional District Judge, Bangalore Division, in the presence of Mr. G. S. Doraswamy Iyer, Advocate for the appellants, and Mr. B. V. Rama Rao, Advocate for the respondent.

In reversal of the decree of the Court of the First Munsiff of Bangalore in Original Suit No. 519 of 1928—29, it is ordered and decreed that the plaintiff's suit be and the same is hereby dismissed with costs throughout.

The costs of this appeal amounting to Rs. 48–5–0 (rupees forty-eight and annas five only) are to be paid by the respondent (plaintiff) to the appellants (defendants 1 and 2).

The costs of the original suit, viz., Rs. 36-12-0 are to be paid by the plaintiff (respondent) to the defendants (appellants 1 and 2).

Given under my hand and the seal of the court, this 26th day of August 1935.

(Sd.) S. Venkataranga Iyengar,
Additional District Judge.

Memorandum of costs incurred in this appeal.

	By the appellants (defendants 1 and 2)	By the respondent (plaintiff)
	Rs. a. p.	Rs. a. p.
Total ...	48 5 0	30 2 0

APPEAL MEMO.

IN THE HIGH COURT OF MYSORE, BANGALORE.

Second Appeal No. 111 of 1935—36.

Appellant :—R. P. Koneti Naika.

Vs.

Respondents :—1. Muddusami Naika.

2. Venkatadri Naika alias Venkataramanaswami Naika.

Under Section 100, and Order XLII, Rule 1, read with Order XLI, Rule 1, Code of Civil Procedure :—

The appellant begs to file this second appeal against the decree and judgment of the learned Additional District Judge, Bangalore, in R. A. No. 137 of 1932—33 on the file of the District Judge, Bangalore, dated 26—8—1935, reversing the decree of the First Munsiff at Bangalore, in O. S. No. 519 of 1928—29 on his file dated 5—9—1932, for the following among others :—

1. The learned Judge was wrong in thinking that the burden of disproving the fact of adoption lay on the plaintiff as observed by him in para 9 of his judgment and the reasons assigned therein for not relying on the evidence of P. W. 2 a close relative are not proper.

2. The learned Judge was wrong in placing reliance on the testimony of D. Ws. 1 to 3 in spite of their admitted interestedness and discrepancies in material particulars and on the testimony of D. W. 4 which stands self-condemned.

3. The learned Judge has drawn very largely on his own imagination and conjecture without either a proper basis or a suggestion therefor on the record.

4. The learned Judge has gone out of his way in trying to explain away very inconvenient circumstances by a theory which is self-contradictory and without any basis or suggestion on record.

5. The learned Judge has erred in placing reliance on a self-serving document shown to be suspicious in preference to unimpeached documentary evidence in proof of a conduct inconsistent and irreconcilable with the theory of a possible adoption.

6. The learned Judge's construction of the standing order of Government relating to adoptions Exhibit J is incorrect and his inference therefrom that the adoption did not offend that rule is insupportable.

7. The learned Judge ignored the fact that nobody ever referred to Exhibit P during trial and least of all was it tendered by plaintiff. The procedure adopted in bringing it on record as the plaintiff's exhibit and the circumstances attendant thereon are not noticed at all.

8. The learned Judge's finding that the parties before court were not Dwijas based on his reference to the Ethnological Survey of Mysore and the Mysore Gazetteer is not supported by the very references relied on by the Judge.

9. The judgment is opposed to the weight of evidence and the probabilities in the case.

Wherefore, the appellant prays the decree of the first appellate court be reversed and that of the trial court restored with costs throughout.

As the suit was one for a bare declaration, a fixed court-fee of Rs. 15 is paid on this memorandum of appeal as on the plaint.

(Sd.) B. V. Rama Rao,

Advocate for appellant.

6/11—11—1935.

Bangalore City.

Dated 6/11—11—1935.

Memorandum of the evidence of witness 1 for plaintiff, taken this 12th day of December 1929 :—

Witness' age appears to be about 34. My name is L. Srinivasa Rao. My father's name is L. Ramachandra Rao. I am by caste Brahmin and by

Occupation Clerk, Financial Secretariat. I reside at Chamarajpet, Bangalore Taluk.

Duly-sworn :—I produce Exhibits A, B, C and D for which summons was issued to the Chief Secretary.

Cross-examination : —Nil.

(Sd.) H. Nanjundiah.
12—12—1929.

Memorandum of the evidence of witness 2 for plaintiff, taken this 13th day of July 1932 :—

Witness' age appears to be about 30. My name is B. J. Kandaswami Raju. My father's name is Seshadri Naika. I am by Caste Kshatria and by Occupation Press-owner. I reside at Bangalore City.

On solemn affirmation :—Defendant 1 is my maternal grand-father's brother. Defendant 2 lost his father before he (defendant 2) was born. I go to defendant 2's house. He is living with defendant 1 from his young age. Defendant 1 was getting the ceremony of defendant 2's natural father performed by defendant 2. I have seen this 4 or 5 times. I have not seen him do so after defendant 2's marriage. Defendant 2's natural father's father was Krishnappa Naika. He was the Palyegar of Manjarabad. A portion of the pension due to Manjarabad Palyegar is given to defendant 2. Defendant 2's wife is my father's sister's daughter. I do not know if defendant 1 has adopted defendant 2. I had not received any invitation for the adoption. If anyone dies in our caste before upanayana, he will be buried. After upanayana, the body will be burnt. We also observe "karmas" and perform "homas". We perform the ceremonies of dead persons according to Shastras. Defendant 2 is recognised as the son of Venkataramanaswami Naika.

Cross-examination :—Defendant 2's natural mother is alive. Defendant 1 and my maternal grand-father are sons of uncles. I live in Aralepet from the beginning of my birth. I earn Rs. 100 a month by my printing press. We wear "janivaras." I have not gone to defendant 1's house after defendant 2's marriage which took place in 1919. Plaintiff is also my grand-father's cousin. Plaintiff's daughter-in-law is my sister.

Re-examination :—I get a political pension also.

(Sd.) A. Sundararaja Rao.

Memorandum of the evidence of witness 3 for the plaintiff, taken this 13th day of July 1932 :—

Witness' age appears to be about 25. My name is Sreekanta Sastri. My father's name is Lakshminarayana Sastri. I am by caste Brahmin and by occupation Purohit. I reside at Arlepet, Bangalore City.

On solemn affirmation :—I know defendant 1. He was in Arlepet before. Defendant 2 was with defendant 1 then. I was officiating as their priest from my 7th or 8th year. My brother-in-law was officiating for me. My father too was their priest. Defendants are Kshatriyas. Defendants have to undergo upanayana. They have to perform homas and wear janivaras. They perform the annual ceremoney of their parents under the usual karma. They observe ceremonies during the obsequies if any one dies. The dead bodies are cremated among them. There is no widow remarriage among them.

Cross-examination :—Even now, I am the purohit of defendants but I got there occasionally. I have 5 or 6 assistants. Nanjunda Sastri goes to defendant's house to officiate as priest. He is not their permanent priest. I am their permanent priest. I am the permanent priest of all the Palyegars.

Re-examination :—Nil.

(Sd.) A. Sundaraja Rao.

Memorandum of the evidence of witness 4 for the plaintiff, taken this 13th day of July 1932 :—

My name is Koneti Naika (plaintiff).

On solemn affirmation :—Defendant 1 is my elder brother. Defendant 2 is defendant 1's daughter's son. We are Kshatriyas by caste. Defendant 2 has married Jeevappa Naika's daughter. Defendant 2's father died over 20 years ago. Defendant 2 was living separately in his young age for some time. Then, he began living with defendant 1. Defendant 2's paternal grand-father was Krishnappa Naika, the Palyegar of Manjarabad. Defendant 2 is drawing the pension due to Manjarabad Palyegar. It is about Rs. 20 and odd. I and defendant 1 are Palyegars of Rayadurg. Defendant 1 has no sons now. His only son is dead. After defendant 1's death, the pension that should go to him has to be paid to me. There was dispute regarding this before Government. Defendant 1 has filed petitions Exhibits A to D to Government. In these petitions, he has sought for permission to adopt defendant 2. The Government refused to give consent for adoption. In all these petitions as per endoresements Exhibits F and G, Government might have passed an order as per Exhibit E. I came to know of this order in 1925. Then, I applied for a copy of it and obtained a copy as per Exhibit E(1). Then, I opposed this order and filed an application. I was then referred to the civil court as per Exhibit K. Then, I filed this suit. The alleged adoption of defendant 2 in 1919 is false. I was not sent any invitation for that function. Exhibit H is addressed to my son. The Palyegar's pension does not go to daughter's sons. In case a pension-holder dies without sons, it goes to his cousins. Exhibit J is a copy of the standing order on this point. In another case, Government have passed an order as per Exhibit L allowing the pension to lapse after the death of the daughter of a previous pension-holder in case he does not leave any

sons. Defendant 2's wife would be his aunt if she had not married him. Such relations cannot marry each other. Sister-in-law means my wife's sister. We wear janivaras and perform upanayanam. I perform my father's ceremony every year. We observe homa. We cremate dead bodies and observe pollution. There is no widow re-marriage amongst us. Defendant 2 performs the ceremony of his natural father. Such a man cannot be adopted amongst us.

Cross-examination:—If a pension-holder dies without any sons, his widow gets the pension. Defendant 2 and his mother both get the pension drawn by the husband of the latter. Defendant 2 brings the pension due to his mother. I was in Madura in 1919. I am in Madura since twenty years. I am living in Bangalore since 6 or 7 years on account of this litigation. I did not know in 1919 or 1920 that defendant 2 would be adopted. I received a notice in 1919 from the Khajani Bakshi asking me whether I had any objection for defendant 1 adopting his daughter's son. I have replied to that notice. I have filed objections before Government when the applications Exhibits A to D were filed. I do not go to the house of defendant 1 since 20 years as he is my dayadi. We do not visit each other on any occasion. I received Exhibit H by post. I have seen defendant 2 performing his father's ceremony 2 or 3 times.

Re-examination :—Nil.

(Sd.) A. Sundararaja Rao.

Memorandum of the evidence of witness 1 for defendant, taken this 21st day of July 1930 :—

Witness' age appears to be about Naika (defendant 1). My name is Muddusami

On solemn affimation :—Defendant 2 is my daughter's son. I have taken him in adoption. The adoption took place on 25—4—1919. The purohit was sent for and I took the boy in adoption. When I intended to take the boy in adoption, I sent intimation to all my relations but none of them came. Only Chikka Krishnappa Naika and his wife were present among my relations. Several others were present but I do not know who they are. Among others who were present was the late Mr. A. Krishnaswami Iyengar, Assistant Commissioner. My agent Mr. Narasinga Rao was also present. I do not remember who else were present. I see Exhibit I. This is a mahazar drawn up at the time of the adoption. Defendant 2's marriage took place within a month after this adoption. There is no upanayanam ceremony in our community. We do not wear the sacred thread. I myself have not undergone the upanayanam ceremony. I got letters written to the plaintiff through my agent Mr. Narasinga Rao about the adoption ceremony before the adoption ceremony took place.

Cross-examination :—Defendant 2's father is dead. He died when defendant 2 was in the womb of his mother. Defendant 2 died in

Bangalore. I do not remember if he was buried or burnt. In our community, dead persons are sometimes burnt and sometimes they are buried. Defendant 2 was about 20 or 25 years old when I took him in adoption. Defendant 2 was with me even since he was born. The practice of performing ceremonies exists in our community. We give "yedes." Defendant 2's father's ceremony has never been performed in our house. Defendant 2 is the only child of my daughter. Jeevappa Naika's daughter Sharadamba is married to defendant 2. Invitation cards had been printed at the time of the marriage. The adoption had taken place before the marriage. Jeevappa Naika had a son by name Govindaraju. The marriage took place in Gundopanth Street. I myself celebrated the marriage. I do not remember the date of the marriage. One Nanjunda Sastri officiated as purohit at the time of the marriage. Invitations were sent by writing post-cards. There are about three or four families in Bangalore, who were related to me. I sent word to them with someone but I do not remember his name. I do not know what transpired at the time of the adoption ceremony. I did not execute any document in favour of defendant 2 to the effect that I had taken him in adoption. There are no dakalas to the effect that I got letters written to my relations. I had not petitioned to the Government to the effect that I wanted to take defendant 2 in adoption. I see Exhibits A(1), B(1), C(1) and D(1). They are my signatures. These are applications addressed to the Government praying that my political pension might be transferred to the name of defendant 2. I do not remember if these applications were read over to me. The Government have passed orders on these applications. The Government orders I shall produce on the next date of hearing if I find them. Further examination is stopped for want of time.

(Intld.) C. B. N.

Defendant 1 re-called and sworn and cross-examined on 17—2—31 :—I cannot give the date in which defendant 2 was adopted. He was adopted 11 years ago. I have not kept any diary. I have not maintained any book for writing horoscope. I do not remember if I had a chit on the last date of hearing noting the date of adoption. I went to Visvesvarapuram within the last 10 or 12 years. Before that I was in Aralepet. When I was in Aralepet, Gantiah was acting as my purohit. After I came to Visvesvarapuram Nanjunda Sastri is acting as my purohit. The adoption took place in Kesava Iyengar's house in Old Taragupet. The attestors of the adoption-deed Exhibit I had come of their own accord. Exhibit I was written just before adoption. Nanjunda Sastri was our purohit when I was in old Taragupet. I got Exhibit I written through my agent Narasinga Rao. I do not know if defendant 2 gets the Manjarabad pension. After defendant 2 came to my house he is performing his natural father's ceremony. I knew that the deed of adoption had to be written on a stamp paper. I told this to Narasinga Rao. I do not know if there are Palyegars in Tarikere, Chitaldrug, Molakalmuru, Devanahalli. I do not interdine with them. There is no custom of widow re-marriage and Koodike marriage in my community. Exhibit E is a final order passed by

Government on my application. I have not brought the endorsement given to my previous application on 3—4—1924. I had filed a petition to the Government. Government issued an endorsement then as per Exhibit F. I had also filed the application Exhibit A. Exhibit G is the copy of the endorsement given to me then.

Re-examination :—From Aralepet, I went to Kesava Iyengar's house in Old Taragupet. While I was there, I built the house in Visvesvarapuram and occupied the house. After Government declined to interfere, I again got a petition filed through my agent Narasinga Rao. I do not remember who wrote the earlier petition. I do not know English. I did not know the contents of the earlier petition. Gantayya is dead.

(Sd.) A. Sundararaja Rao,
First Munsiff.

Bangalore.
17—2—1931.

Cross-examination :—Narasinga Rao is even now my agent. The earlier petitions were drafted on the facts given by me.

(Sd.) A. Sundararaja Rao,
First Munsiff.

Bangalore.
17—2—31.

Memorandum of the evidence of witness 2 for defendants, taken on this 17th day of August 1931:—

Witness' age appears to be about 35. My name is Nanjunda Sastri. My father's name is Rama Sastri. I am by caste Brahmin and by occupation Purohit. I reside at Bangalore City.

On solemn affirmation :—I know defendants. I know the adoption of defendant 2 by defendant 1. I officiated as priest then. Defendant 2 the grand-son of defendant 1 and I attended to the ceremony of giving and taking. Mr. Narasinga Rao wrote Exhibit I then. I have attested it. Defendants have no " yegnopavitha " or sacred thread. I do not know if they have a right to wear it. They are Sudras and not Dwijas.

Cross-examination :—For the last 15 years, I officiate as priest in defendant's house. Defendants were at Aralepet and Siddicatta before they came to live in Visvesvarapuram. I officiate as priest in Divakara Naika's house and in Kandasami Naika's house. I have not officiated as priest in plaintiff's house. In plaintiff's community, there is the custom of cremation as well as burial. I do not know what was done when defendant 2's natural father died. I cannot say if defendant 2 has any brothers. I am not seeing any one else in his house. Defendant 1

performs shraddas. Defendant 2 does not perform any shradda. I officiated as priest in defendant 2's marriage. 15 or 20 days after the adoption ceremony, defendant 2's marriage took place. The adoption took place 10 or 11 years ago in Gundopanth Street, in the house occupied by defendant 1. I was not asked to write a lagnapatrika for inviting persons for this function. No karmas were observed at the time of adoption. Defendant 1 and his wife and defendant 2 and his paternal grand-father and defendant 2's mother Gourammanni were all seated there. Defendant 2's paternal grand-father and Gourammanni gave defendant 2 in adoption. Mr. Krishnasami Iyengar, Assistant Commissioner, was present then. He is now dead. Chik Krishnappa Naika, the paternal grand-father of defendant 2, died 2 months ago. Bheemasena Rao too had come there. There were 50 people present then. I do not know who told Narasinga Rao to write Exhibit I. No one raised any takarar then. Divakar Naika had come then. He is alive now. I do not know if Chik Krishnappa Naika's wife was alive on the date of adoption. Neither plaintiff nor his sons attended that function. I got the marriage lagnapatrika of defendant 2 written. Bhimasena Rao, Krishnasami Iyengar and Garudachar have also attested Exhibit I. Defendant 2's natural father's sraddha is performed by his mother. When sraddhas are performed in defendant 1's house, pindas are offered but no homa will be performed then. Defendant 1 had a son and he is now dead. He has left a widow. I cannot say when he died. His widow also is now dead. I got performed their obsequies. I do not know if their bodies were then buried or cremated. I do not remember what remuneration I was given for officiating as priest in the adoption ceremony.

Re-examination :—The obsequies performed in defendant's house and the unboiled rice pindas offered in the time of sraddha are according to the rites prescribed for the Sudras.

Cross-examination :—I do not remember if laja homa was performed in defendant 2's marriage.

(Sd.) A. Sundararaja Rao,
First Munsiff.
17—8—31.

Memorandum of the evidence of witness 3 for defendants, taken on this 29th day of September 1931 :—

Witness' age appears to be about 57. My name is Narasinga Rao. My father's name is Krishnappa. I am by caste Brahmin and by occupation retired Manager, Municipal Office. I reside at Bangalore City.

On solemn affirmation :—I know defendants. I am their agent. I am the agent for other Palyegars also. I know defendant 1 adopted defendant 2. This was in 1919. I was present at the time of adoption. Exhibit I was written at that time by me. The paternal grand-father of

defendant 2 and defendant 2's mother gave away the boy to defendant 1 and his wife according to Shastras. Defendant 1 has written to Government to recognise the adoption of defendant 2 and to transfer the political pension to the name of defendant 2. The last petition was drafted by me. Defendant 1 had sent two petitions before the last. Government passed the order recognising the adoption on the petition drafted by me. Exhibit E is the Government order recognising the adoption. I and my father and grand-father have been acting as agents of Palyegars. Defendants are Sudras so far as I know. They do not belong to twice-born class.

Cross-examination :—I know plaintiff. I was plaintiff's agent also for 6 or 7 years. I am the agent of plaintiff's daughter-in-law now. There might be ill-will between plaintiff and her daughter-in-law. The adoption took place in a house in Gundopanth Street. Assistant Commissioner Krishnasamiengar, Garudachar, Bhimasena Rao and others were present at the time of adoption. Invitations had been sent to defendants' relations as well as to plaintiff. Gopalakrishnasami Naika is also a relative of defendants. Chick Krishnappa Naika attended the function. His sons also had come then. I was present throughout the function of adoption. Defendant 2 was the only son of his natural father. Defendant 2 was married 20 days after adpotion to the daughter of Jeevappa Naika. The latter has left a son Govindarajulu. I attended the marriage of defendant 2. Defendant 1 had not consulted me when he filed the two earlier petitions. I drafted the petition after seeing the draft of earlier petition. The adoption-deed had to be registered. I knew this. I did not suggest that a deed of adoption should be drawn up and registered. I was satisfied with a document like Exhibit I. I wrote Exhibit I at the instance of defendant 1. Defendant 2's paternal grand-father is dead now. As I and plaintiff did not agree, I gave up his agency. Printed invitations had been sent for defendant 2's marriage.

Re-examination :—Exhibit H might be a copy of this invitation. I am aware defendants have no janivara (ಜನಿವಾರ). I am aware of the standing order of Government as per Exhibit J, but that order has been violated in many instances.

(Sd.) A. Sundararaja Rao.

Memorandum of the evidence of witness 4 for defendants, taken on this 29th day of September 1931 :—

Witness' age appears to be about 50. My name is M. Bheemasena Rao. My father's name is M. Hanumantha Rao. I am by caste Brahmin and by occupation Teacher in Central College. I reside at Bangalore City.

On solemn affirmation :—I know defendants. Defendant 1 adopted defendant 2. I was present at the time of adoption. This took place 12 years ago. I saw defendant 1, Chick Krishnappa Naika and defendant 2's paternal grand-father and many others there. Defendant 2's paternal grand-father agreed to give and defendant 1 took the boy in adoption.

Cross-examination :—Nil.

(Sd.) A. Sundararaja Rao.

EXHIBIT A.

To

Rajasevadhurina

Sirdar M. Kantharaj Urs, Esq., B.A., C.S.I.,

Dewan of Mysore.

Most Respected Sir,

I respectfully beg to bring to your kind notice that I am one of the Palyegars of Rayadrug family enjoying a stipend of Rs. 103-2-0 from the Government of Mysore. I had an only son who died about 2 years ago. His wife had predeceased him leaving no children surviving. As it now stands, my family will become extinct and this idea is causing me and my wife great anxiety and trouble in our old age. I am now of 75 years of age. It is therefore my very humble wish that I should take in adoption my widowed daughter's son Venkatadri Naika, a boy of about 18 years, so that my line of descent may be perpetuated and the pious wish of a Hindu may be gratified. At present, myself and my wife are under the care and protection of our daughter and our grand-son. The Government of H. H. the Maharaja have been graciously pleased to accord their very kind sanction for adoption in several Palyegar families. The adoption of daughter's son (douhitra) has been recognised under the Hindu Law and usage and as my present request has been supported by law and usage and as my present request has been supported by law and immemorial custom, I most respectfully beg to request that the Government will be graciously pleased to accord their kind sanction to the adoption of my grand-son named above and recognise him as my successor to the pension now enjoyed by me.

I beg to remain,

Most Respected Sir,

Your most obedient servant,

ರಾಯದುರ್ಗದಪಾಳೆಗಾರು ಮುದ್ದು ಸ್ವಾಮಿ ನಾಯ್ಕರ ರುಜು.

Bangalore.

4th March 1921.

EXHIBIT B.

To

The Chief Secretary to the Government

of His Highness the Maharaja of Mysore,

Bangalore.

Through

The Khazana Bakshi,

State Huzur Treasury.

I Sir,

I respectfully beg to bring to your kind notice that I am one of the Palyegars of Rayadurga family enjoying a stipend of Rs. 130-2-0 a month.

In my petition dated 4—3—21, I had requested the Government to give me permission to adopt my daughter's son Venkatadri Naika. My only son had died about 5 years previously leaving no children surviving. His wife had predeceased him. The Government in their recent order have declined to accord their sanction to my humble prayer. This has made me and my wife quite miserable in our extreme old age. The pious wish of every Hindu is that his line of descent should continue and that it should not end abruptly which would plunge them in eternal hell. The Hindu Law has made provision for adoption for giving relief to such unhappy lot.

The adoption of the daughter's son (dowhitra) has been considered therein to be the best form of adoption and second only in rank to the true begotten son.

The benign Government of His Highness the Maharaja has been pleased to recognise the adoption in many Palyegar families.

Under these circumstances, I very humbly pray that the Government of His Highness the Maharaja will be graciously pleased to reconsider the former order and accord their sanction for the adoption of my grand-son Venkatadri Naika and give me comfort in my last days.

I beg to remain,

Sir,

Your most obedient servant,

ರಾಯದುರ್ಗದ ಪಾಳೆಗಾರು ಮುದ್ದು ಸ್ವಾಮಿ ನಾಯ್ಕರ ರುಜು.

3—4—24.

R. P. Mudduswami Naika,

190, Visvesvarapuram,

Bangalore City.

EXHIBIT C.

To

A. R. Banerji, Esq., M.A., I.C.S., C.S.I., C.I.E.,

Dewan of Mysore,

Bangalore.

Sir,

With reference to Government Order No. Fl. 27 —S and A 111—23—2 dated 2—7—1924 stating that Government see no reason to reconsider the order communicated to me in Fl. 1284—S & A 189—20—8 dated

27—8—1921, regarding my adopting my daughter's son Venkatadri Naika, I beg to submit the following for your kind reconsideration :—

1. From the accompanying genealogical tree I of my relations it will be seen that my only son Ramaswami Naika and his wife are dead and that I have only my daughter Gowrammanni who is also widowed and her son Venkatadri Naika under whose care I am now. My cousins Chicka Koneti Naika and his two sons Rajagopala Naika and Venkatapthi Naika were divided from my father's time and are living separately. As the pensions were increased in Sir K. Seshadri Iyer's time by 50 per cent., my father and subsequently myself got Rs. 103—2—0 per month instead of Rs. 68—12—0 which my father got before.

2. My cousins have been giving me trouble and we have not been in good terms from a long time. There are many police records to show the same. So late as June 1923 also, they were warned by the police.

3. Government in their order Camp No. 1678 dated 29—10—1887, para 8 say that succession vests in the son duly adopted as it would be in strict accordance not only with the fundamental principles of the Hindu Law and the precedents of the State but also with the popular general feeling in the matter and in para 9 of the same Government order they say how a widow should adopt. As my son and his wife also are dead, I am under the care of my only daughter who will be my next heir. She has also given her consent for my adopting her son, that is my grand-son, by her.

4. A perusal of the Government order (1) Residency No. 117 dated 12—8—1880, (2) No. P. P. 86—87 dated 10—11—1900, and (3) No. Fl. 3408-9—S and A 127—09—7 dated 19—1—1910 and the genealogical tree II enclosed will show that the pension Rs. 91—11—3 of Chickappiah of the Chickaballapur Palyegar family was divided between his widow Venkatalakshmammanni getting Rs. 45 and his mother who had two daughters getting Rs. 22-8-0 and his step-mother getting Rs. 22-8-0. On the death of the step-mother, her pension Rs. 22-8-0 also reverted to Chickappiah's widow. After Venkatalakshmammanni's death, her pension Rs. 45 plus Rs. 22-8-0 or in all Rs. 67-8-0 was divided equally between her two daughters Chayammanni and Nagaralakshmammanni. This Chayammanni had two daughters Chayammanni and Nagaralakshammanni, but the former predeceased her mother leaving her son Puttanniah who is now drawing the pension of the whole family.

Reading the Proceedings of 1887 with those of 1880 and 1900 and 1910 quoted above, it will be seen that even widows have been allowed to adopt and that the pension descends to the female line also in a divided family. As my cousins have been divided and inimical to me, I cannot make up my mind to adopt in their family. Besides, according to the Hindu Law my daughter will be my next heir, as the proceedings cited above show it.

As even widows have been permitted to adopt, I beg permission to adopt my daughter's son Venkatadri Naika alias Venkataramanaswami Naika as they are the only persons taking care of me in my old age. I beg you will kindly pass early orders favourably.

For which act of kindness, I shall as in duty bound, ever pray for your long life and prosperity.

I beg to remain,

Sir,

Your most obedient servant,

ರಾಯದುರ್ಗದ ಪಾಳೆಗಾರು ಮುದ್ದು ಸ್ವಾಮಿ ನಾಯ್ಕರ ರುಜು.

No. 190, Visvesvarapuram,

Bangalore Fort P. O.,

Dated 22nd August 1924.

Genealogical Tree,

I

Koneti Naika

(deceased)

R. P. Muddukrishnappa Naika
(deceased)
Pension Rs. 68–12–0 increased
by 50 per cent in Sir K. Seshadri
Iyer's time in all Rs. 103–2–0

R. P. Muddusami Naika
about 80 years
Pension of Rs. 103–2–0

R. P. Ramaswami Naika
and his wife (both dead)

Gourammani

M. V. Venkatadri Naika
alias Venkataramanaswami Naika

Nanjundappa Naika
Pension Rs. 58–5–10 plus 50
per cent of it

Chikkakonoti Naika
(about 58 years)

Rajapopal Naika
aged about 40

One daughter 3 years

Venkatapathi Naika
aged about 35

One daughter about 7 years

Genealogical Tree.

II

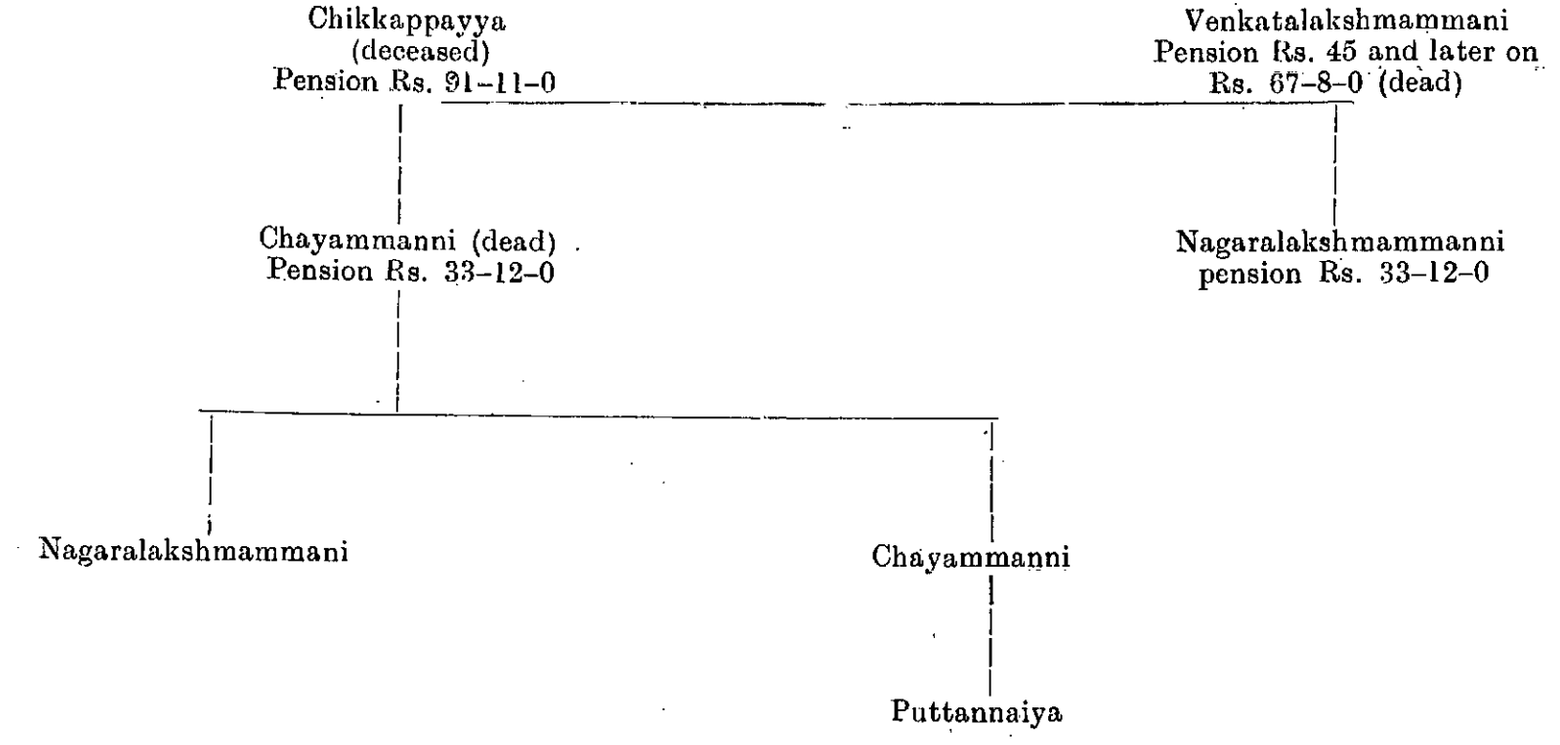


EXHIBIT D.

To

A. R. Banerji, Esq., M.A., I.C.S., C.S.I., C.I.E.,

Dewan of Mysore,

Bangalore.

Respected Sir,

In continuation of my application dated 8—8—24 requesting you to reconsider the decision of Government of 2—7—24 regarding my adopting my daughter's son, I beg to approach you with the following facts :—

G. O. Camp No. 1678 of Mysore dated 29—10—1887 refers to a Madras Government Order authorising Collectors to recognise an adoption when the party adopted was near of kin to the party making adoption, as nephew or first cousin of an undivided family and the former part of the same para and para 7 also show the generous nature of His Highness' Government regarding poor Palyegars.

As per para 8 of the said G. O. as we were given pensions instead of our Pallepet lands, the fundamental principles of the Hindu Law and the precedents of the State are to be applied for the pensions as for Pallepet lands. I have no doubt two cousins. They are over 36 and 40 years in age and have no male issues. Besides, they are divided and they get their pensions separately. They are not in good terms with me as the police records will show. I, therefore cannot adopt them. My daughter and her son have been protecting me and my wife since 8 or 10 years when my son and daughter-in-law died. I therefore wish to adopt my daughter's son M. V. Venkatadri Naika alias M. V. Venkataramanaswami Naika. The Hindu Law also permits this. Though there were cousins as they were divided, the Palyegar pension was continued in the female line in the Chickballapur family, vide G. O. No. (1) P. P. 86—87 of 10—11—1900 and No. (2) Fl. 3408—9—S and A 127—09—7 of 19—1—1910.

I therefore pray that you will kindly permit me to adopt my daughter's son.

I beg to remain,

Sir,

Your most obedient servant,

ಮುದ್ದುಸ್ವಾಮಿ ನಾಯ್ಕರ ರುಜು.

No. 190, Visvesvarapuram,

Bangalore City.

Dated 28th November 1924.

EXHIBIT E.

Proceedings of the Government of His Highness the Maharaja of Mysore.

Read :—Petitions dated the 22nd August 1924 and 28th November 1924 from Mr. Mudduswami Naika praying that he may be permitted to adopt his daughter's son M. V. Venkatadri Naika alias M. V. Venkataramanaswami Naika who may be allowed the Palyegar pension now drawn by him.

Order No. Fl. 5454/S and A 29—24—6.

Dated, Bangalore, the 4th April 1925.

The petitioner's prayer was before Government more than once in the past and it was not granted on the ground that the young man proposed to be taken in adoption was not nearest of kin, as required by Government Order No. Camp 1678, dated the 29th October 1887, laying down the conditions under which adoption to the families of Palyegar pensions would be recognised by Government.

The petitioner Mr. Mudduswami Naika has renewed his request again and urged a reconsideration of the orders on the following grounds :—

1. That the circumstances of the family are such that he cannot think of adopting a son from the family of his cousins who are on terms of fued with him as proved by many police records, and

2. That the members of his family are divided from his father's time and that they are living separately and drawing their pensions independently.

3. That the adoption permissible under the Hindu Law was made by him on 25th April 1919.

On a reconsideration of the case and in view of its special features urged by the petitioner, Government are pleased to direct that the adoption by Mr. Mudduswami Naika of his daughter's son M. V. Venkatadri Naika alias M. V. Venkataramanaswami Naika be recognised for the purpose of continuing the Palyegar pension of Mr. Mudduswami Naika.

(Sd.) M. A. Rangachar,
For Financial Secretary to Government.
(Intld.) (not clear).

To

The Comptroller to the Government of Mysore.

K. M. R. Z.

Copy of the above is forwarded to Mr. Mudduswami Naika, No. 190, Visvesvarapuram, Bangalore City, for information.

EXHIBIT F.

Re. 0-8-0 (eight annas) court-fee stamp affixed here. Government of His Highness the Maharaja of Mysore. General and Revenue Secretariat.

No. Fl. 27—S and A 111-23-2 dated Bangalore the 2nd July 1924.

To:

M. R. Ry.

R. P. Muddüswami Naika,

No. 190, Visvesvarapuram,

Bangalore City.

Sir,

With reference to your representation dated 3rd April 1924 requesting permission to adopt your daughter's son Venkatadri Naika with a view to his being recognized as successor to the political pension now drawn by you, I am directed to state that Government see no reasons to reconsider the order already communicated to you in Fl. No. 1284—S and A 189—23—8 dated 27th August 1921.

I have the honour to be,

Sir,

Your most obedient servent,

(Sd.) M. A. Rangachar

For Financial Secretary to Government.

"True copy."

(Sd.) T. Signaravelu,

Registrar, General and Revenue Secretariat.

(Intld.) (not clear).

18—9—?

Copied by—(not clear).

Compared by—

(Sd.) A. Padmanabhan.

Date of application 8—8—25.

Date of delivery 23—9—25.

Number of words 127.

Copying fees Re. 0-4-0.

Comparing fees. Re. 0-0-8.

Sealed as the Government of His Highness, the Maharaja of Mysore.

ಮೈಸೂರು ಶೀಮಯ ಶ್ರೀಮನ್ಮಹಾರಾಜ ರಾಜಾ ಸಾಹೇಬ'ಬಹದ್ದೂರವರ ಸರ್ಕಾರ' (ವೆಂದು) ಮೊಹರು ಇರುತ್ತೆ.

EXHIBIT G.

Government of His Higness the Maharaja of Mysore. General and Revenue Secretariat. No. Fl. 1285—S and A 189—20—1 dated 27—8—1921.

Endorsement granted to M. R. Ry. Mudduswami Naika, Rayadurg Palyegar family, Bangalore City.

Sir,

With reference to your petition dated 17th March 1921 praying for permission to adopt your daughter's son Venkatadri Naika with a view to his being recognised as successor to the political pension now drawn by you, I am directed to communicate the order of Government that your request cannot be sanctioned.

Yours faithfully,

(Sd.) B. Srinivasa Iyengar,

For Financial Secretary.

Sealed as the Government of His Highness, the Maharajah of Mysore.

ಮೈಸೂರು ಪೀಮಯ ಶ್ರೀಮನ್ಮಹಾರಾಜ ರಾಜಾ ಸಾಹೇಬ್ ಬಹದ್ದೂರವರೆ ಸರ್ಕಾರ್ (ವೆಂದು) ಮೊಹರು ಇರುತ್ತೆ.

(Sd.) T. Singaravelu,

Registrar, General and Revenue Secretariat.

(Intld.) (not clear).

Copied by—

(Sd.) (not clear).

Compared by—

(Sd.) A. Padmanabhan.

Date of application 8—8—25.

Date of delivery 23—9 —25.

Number of words 98.

Copying fees Re. 0–2–0.

Comparing fees Re. 0–0–4.

"True copy."

EXHIBIT H.

Mr. R. P. Govindarajulu (Palyegar of Rayadrug) presents his best compliments to and requests the pleasure of the company of M. R. Ry. R. P. Venkatapathi Naika (Garu) on the occasion of the marriage of his sister Chiranjeevi Sowbhagyavathi Saradamba (daughter of late Mr. R. P. Jeevappa Naika, Palyegar of Rayadrug), with Chiranjeevi Venkatadri Naika (son of

late Mr. Venkatadri Naika, (Palyegar of Manjarabad) on Thursday the 8th May 1919, at No. 3/14, Gundopanthulu Street, Bangalore City.

Muhurtham 8 to 10 a.m. Music at 6 p.m.

EXHIBIT J.

Proceedings of the Dewan to His Highness the Maharaja of Mysore.

Read the following papers :—

Letter No. 9 of the 15th August 1887 from the Khazana Bakshi reporting the death on the 17th May 1887 of Gangamma, one of the stipendiaries of the Manjarabad Palyegar family, who was in receipt of a pension of Rs. 84-11-11 per mensem, and submitting proposals for the disposal of the pension.

Letter No. 14 of the 11th October 1887 from the Khazana Bakshi, forwarding certain papers in connection with the above-mentioned pension.

Camp No. 1678, Mysore, dated 29th October 1887. Order thereon : (x x x x 6). On the general question of the validity of an adoption for the purpose of succession to a Palyegar-pension, His Highness' Government are of opinion that no Native State should refuse its recognition to any adoption properly made from among the next of kin. In 1822, His Highness the late Maharaja sanctioned the adoption of a son by a Palyegar widow and continued the pension to such adopted son. During the British Administration of the province, it was laid down (in August 1862) in connection with an adoption in the Anekal (family) that the Government ought not to recognise any adoption as valid for the purpose of succession to a Palyegar pension. This ruling was based probably upon the orders of the Madras Government dated 18th September 1851, quoted at page 150 of the standing orders of the Board of Revenue (Mr. Dalyell's edition 1866). These orders laid down as follows :—

"Pensions granted hereditarily are to cease when the hereditary line fails and are not to pass to adopted children, and the Government reserve to themselves, in all cases; the right of refusing to recognise the claims of an adopted son to any allowance in land or money." The same orders however authorized Collectors to recognize an adoption when the party adopted was near of kin to the party making the adoption, as nephew or first cousin of an undivided family.

7. The cases to which these orders of the Madras Government were intended to apply were not exactly analogous to the Mysore Palyegar pensions which were granted under very peculiar circumstances, partly in lieu of Pallepet lands and party on political grounds. In British Territory, the Government confirmed to the Palyegars, in most cases, their Pallepet lands subject to the payment of a pesh kash. In Mysore, this class of petty rulers lost their political power and importance during the Mahomedan rule, and on

the pacification of the country after the fall of Seringapatam, it was deemed inadvisable to restore to them their old Pallepet lands and they were accordingly granted money pensions. With the fall in the value of money, the pensions were increased on two occasions during the British Administration, once in 1860 by 50 per cent and again in 1865 by 25 per cent.

8. Under such circumstances, His Highness' Government are of opinion that it will be no more than bare justice to extend to Mysore Palyegar pensions, the same rule of succession as applied to Pallepet lands. In the case of the latter, the succession admittedly vests in a son duly adopted, and to apply the same rule to the Mysore Palyegar pensions would be in strict accordance not only with the fundamental principles of Hindu Law and the precedents of the State when under Native Rule, but also with the popular general feeling in the matter.

9. The rule of Hindu Law, which require the previous sanction of the Sovereign to an adoption by a widow in such cases, and which prescribe that the boy adopted shall be the nearest of kin to the adoptive father, is of special importance as regards Palyegar pensions, and must therefore be most scrupulously followed in order to ensure the recognition of any adoption as valid for the purpose of succession to a Palyegar pension. The strict enforcement of this rule would be the means of keeping the pension in the same family, a result which is highly desirable on grounds other than those of mere conformity to Hindu Law.

(Sd.) R. Vijayendra Rao,
Chief Secretary.

To

The Khazani Bakshi.

To

The Deputy Commissioners

of Districts.

"True copy."

(Sd.) T. Singaravelu,
Registrar,
General and Revenue Secretariat.

(Intld.) (not clear.)
16—9—?.

Copied by—(not clear.)

EXHIBIT K.

IN THE COURT OF THE FIRST MUNSIFF, BANGALORE.

Original Suit No. 519 of 1928—29.

Plaintiff :—R. P. Koneti Naika.

Vs.

Defendants :—Mudduswami Naika and another.

Dated 13—7—1932.

Proved by plaintiff.

(Intld.) A. S.,
First Munsiff,
Bangalore.

No. Fl. 3062.

Government of
His Highness the Maharaja of Mysore,
General and Revenue Secretariat,
Bangalore.
Dated 12—10—1926.

Endorsement.

To

Mr. R. P. Koneti Naik,
No. 131, Cotton Petta,
Bangalore City.

In reply to his petition dated 4th September 1926 praying for reconsideration of the orders of Government recognizing the adoption of Venkatadri Naika alias Venkataramanaswami Naika, a Palyegar pensioner, the petitioner is informed that it is open to him to get the adoption invalidated in a court of law and then apply to Government for redress.

By order,

(Sd.) B. Raghavendra Rao,
For Financial Secretary to Government.

Dated 5—10—1926.

(Intld.) (not clear.)

Dated 5—10—26.

Received 13—10—1926.

Original Suit No. 519 of 1928—29.

(Intld.) M. S. M.,
Head Munshi.
Dated 30—3—1929.

EXHIBIT L.

No. 5332/P. P. 30

Mysore Dewan's Office,
P. P. Department,
The 3rd October 1902.

Endorsement granted to Kesavamma Nagati, widow of Jatangi Raju of the Gudikote Palyegar family, Gantimari, Dharmavaram Taluk, Anantha-pur District. In reply to her memorial registered No. 687 dated the 9th July 1901, appealing against the order of Government No. 92-3 dated the 10th November regarding the adoption of Krishnappa Naika by his sister late Venkatamma Nagati, and directing the payment to him of a pension of Rs. 102–5–0 a month.

Petitioner is informed that the Government of His Highness the Maharaja are pleased to reverse the order appealed against and that although she is not entitled to the lapsed pension as heir or reversioner yet she being the only surviving member of the family left, the full pension payable to the family which, with the pension of Rs. 37–8–0, now drawn by her, will amount to Rs. 139–13–0 will be allowed to her during her life strictly as a life grant.

By Order,
(Sd.) H. Ramiah,
For Secretary.

EXHIBIT M.

Proceedings of the Government of His Highness the Maharaja of Mysore.

Read :—

Letter No. S. H. T. 781 dated 11/16th August 1930 from the Comptroller, forwarding the report of the State Huzur Treasury, Bangalore, in the matter of the disposal of the pensions of Hagalavadi Palyegar family of Rs. 160 and Rs. 30 drawn by Shughandaraj and Devammaji who died on 20th May 1929 and 22nd March 1926, respectively.

2. Memorial dated 30th January 1932, presented by Rajasabha-bushana Dewan Bahadur Sir K. P. Puttanna Chetti, guardian of the petitioners

Rajasekhariah, Kumaraswamy, Srikantiah and Viswanathiah, minors, requesting the continuance of the pensions in their behalf.

Order No. Fl. 6992/S and A61—30—3.

Bangalore, Dated the 11/12th March 1932.

1. The Hagalwadi family pension granted to Veerappaji alias Veerappa Naika was, after his death, being enjoyed in shares by his three sons by the 1st wife, viz., Basavalingaraja, Sugandharaja and Chennaveeraraja, and by Devammaji, his younger widow. The former were in receipt of Rs. 80 each and the latter was drawing Rs. 30. On Basavalingaraja's death without male issue, his pension was continued to his widow Parvathammaji. After Chennaveeraraja's death without issue, Sughandaraja was in respect of his own pension as well as that of his deceased brother. Both Sughandaraja and Devammaji having died, their stipends have remained undrawn.

2. The State Huzur Treasury Officer states that six claimants have applied for the continuance of the pensions as under:—

(1) Sadasivaraja prefers his claim as the son of Veerappaji original Barawardar by his second wife Devammaji and as the step-brother of the deceased Sughandaraja,

(2) Veeraraja alleges that he is the adopted son of Veerappaji's daughter, Rajamma, sister of the deceased Sughandaraja,

(3) Parvathammaji has put in a claim as the widow of the late Basavalingaraja, brother of the late Sughandaraja,

(4) Sivappa claims to be the son of an alleged brother of Veerappaji,

(5) Nanjundaraja bases his claim as an adopted son of the deceased Sugandharaja and also as the nearest agnate of the last holder, and

(6) Rajasekhariah and his three younger brothers, all minors, by their paternal grand-father, and guardian Sir K. P. Puttanna Chetti claim as the daughter's sons of Basavalingaraja, brother of Sugandharaja.

3. After investigating the claims of the several applicants, the State Huzur Treasury Officer reports that claimants (1) to (5) have no right to the vacant pensions and that their petitions may be rejected. He, however, supports the prayer of claimant (6) and recommends that Rajasekhariah, the eldest of the 4 sons of Thayammaji, may be registered as the Barawardar of the entire Hagalavadi family pension of Rs. 270 per mensem subject to certain conditions.

4. The first claimant was adopted into another family while the second claimant is a member of a separate family altogether and both these can have no claim to the vacant pensions.

The third claimant is already in receipt of a stipend of Rs. 80 since her husband's death in 1918 which is sufficient for her maintenance.

No. 4 has had no share of the pension so far and his claim cannot now be entertained. As regards claimant 5 his alleged adoption to Sugandharaja (even if it were a fact) is ineffective for the purpose of determining succession to the pension for want of Government sanction.

5. Applicants No. 6 prefer their claims as the daughter's son or dauhitras of Basavalingaraja and if succession is to be traced, as it should be under the Hindu Law, from the last male holder viz., Sughandaraja they come in only as his brother's daughter's sons and cannot have any precedence over nearer heirs.

Whether Basavalingaraja or Sugandaraja is taken as the last holder of the pension for the purpose of tracing succession, this Palyegar family should be considered to have ceased to exist as neither of them has left any male issue and when a Palyegar family becomes extinct by the absence of natural or validly adopted male heirs, the jurisdiction for the continuance of the pension allowed to it ceases.

Government are of the opinion that the acceptance of the claim of a daughter's son would be quite opposed to the whole scheme and policy of Palyegar pensions. These are stipends specifically annexed to certain ancient families and are only intended for the personal benefit of scions of those families in the true sense of the term and it would not be right to allow them to be diverted for the benefit of other families.

6. In view of these considerations, the pension of Rs. 160 rendered vacant by the demise of Sugandaraja and the stipend of Rs. 30 granted to Devammaji should lapse to Government.

(Sd.) B. Srinivasa Iyengar,

Financial Secretary to Government.

To the Comptroller to Government with the original papers.

EXHIBIT N.

Rajamantra Dhurina Sir A. R. Banerji, Kt., M.A., I.C.S., C.S.I., C.I.E.,

Dewan of Mysore, Bangalore.

May it please Your Excellency,

The humble representation of R. P. Koneti Naika of the Rayadurga Palyegar family, for a reconsideration of the orders of Government passed ex-parte in their Proceedings No. Fl. 5454/S and A 27—24—6, dated 4th

April 1925, recognising the adoption said to have been made by one Mr. Mudduswami Naika (a cousin brother of the present memorialist) of his own widowed daughter's son, Mr. Venkatadri Naika alias Venkataramanaswami Naika, most respectfully showeth :—

1. That the adoption alleged to have been made is quite contrary to the spirit and intentions of the standing orders of His Highness' Government promulgated in Government Order No. Camp 1678, dated 29th October 1887 regulating such adoption, para 9 of which runs as follows :—

"The rule of Hindu Law which requires the previous sanction of the Sovereign to an adoption by a widow in such cases and which prescribes that the boy adopted shall be the nearest of kin to the adoptive father is of special importance as regards Palyegar pensions and must therefore be most scrupulously followed in order to ensure the recognition of any adoption as valid for the purpose of succession to a Palyegar pension. The strict enforcement of this rule would be the means of keeping the pension in the same family, a result of which is highly desirable on grounds other than those of mere conformity to Hindu Law."

2. That the primary object of the Government as the said order indicates is that the boy to be adopted should be the nearest of kin to the adopted father and that the pensions should be confined to the same family. Both these aspects have been wholly overlooked in the present case by the recognition of a daughter's son, a person of quite a different family and of foreign gotra (ಅನ್ಯ ಗೋತ್ರ).

3. That the person alleged to have been adopted is not a child or a boy but an adult of about 25 years who is not only married but who has also already performed the obsequies to his deceased natural father and who therefore becomes incompetent and ineligible to perform similar obsequies to the present adopted father when the necessity for it may arise thereby rendering himself unfit for adoption.

4. That the person to be adopted belongs to the Manjarabad Palyegar family while the family to which he is to be taken in adoption is the Rayadurg family the two being quite distinct and unconnected with one another.

5. That the person to be adopted is already in receipt of a pension of Rs. 11-8-0 as a member of the Manjarabad Palyegar family and cannot rightly become eligible to quite a separate stipend from the Rayadurg family.

6. That, above all, the person to be adopted is the only son of his father and mother and cannot therefore be justly taken away from his legitimate family rendering it extinct altogether and depriving the natural parents of the benefits of the annual ceremonies for the regular performance of which a son is intended in a Hindu family. The pious wish of every true Hindu

that his own line should be continued and that the deceased's ceremonials should be performed uninterrupted, since according to the Shastras there is no heavenly region for a sonless man is wholly left out of consideration in the present case.

7. That the adoption in question was declined by Government on two different occasions as the following reference will show :—

(i) No. Fl. 1285—S and A 189—20 –8 dated 27—8—1921, and

(ii) No. Fl. 27—S and A 111—23—2 dated 2nd July 1924,

and it is not clear why and how for a third time, all of a sudden and without any enquiry or notice to the parties, it came to be recognised in April 1925.

8. That the allegations made by the memorialist's brother (the person making the adoption) that the cousins are on terms of fued and that they are divided in interest are not real facts, borne out by proper documents or reliable evidence of the family members nor has any reference of the fued has been made in the first application for adoption submitted by Mr. Muddusami Naika in June 1921.

9. That the fact that the adoption was permissible under the Hindu Law an aspect adverted to in the present Government Order or the one under review is not quite correct as it is opposed to the explicit Standing Orders of 1887 the last words of para 9 of which says that the strict enforcement of this rule would be the means of keeping the pension in the same family a result of which is highly desirable on grounds other than those of mere conformity to Hindu Law.

10. That no proper enquiry was conducted through the Khajana Bakshi before formally recognising the adoption in Government Order dated 4th April 1925, under review as is usually done in all such cases on the various issues involved in the case and as to the veracity of the statements made by the parties. On the other hand, on a representation made by the memorialist to Khajana Bakshi with reference to the petition of June 1921 explaining fully all the circumstances and aspects of the case, the prayer was refused by Government in their first Order No. Fl. 1285—S and A 189—20—8 dated 27th August 1921.

11. That the most noteworthy feature in the case is that the adoption was made on the 25th April 1919, as the Government order of the 4th April 1925, now under review puts it, or full 2 years prior to Mr. Muddusami Naika's first petition to Government dated the 4th March 1921, praying for permission to adopt. How far this present inference could be relied upon is for the consideration of Government.

12. In these circumstances and in consideration of the fact that one and the same person cannot be a natural son of one family and the adopted

son of another and in view also of the fact that the son to be adopted has performed the obsequies of his natural father and is also a married man, the memorialist prays that all the papers connected with the case together with the memorialist's previous petitions may be sent for and perused and the orders now passed modified in such manner as Government may deem fit.

The memorialist will, if so directed, appear before Government on any day fixed for the hearing of the case and explain any points which may require elaboration.

For which act of kindness, the memorialist will feel highly grateful.

The Memorialist begs to subscribe,

May it please Your Excellency,

Your Excellency's most obedient and humble servant.

(Sd.) R. P. Koneta Naika,
Rayadurga Palyegar,
No. 151, Cottonpet, Bangalore City.

Bangalore.
8th April 1926.

"Copy."

(Sd.) A. Subba Rao.
For Financial Secretary to Government.

EXHIBIT O.

To

The Dewan of Mysore,
Bangalore.

Most Respected Sir,

I beg humbly to acknowledge the receipt of the Endorsement No. Fl. 6712—S and A 35—25—10 dated the 19th May 1926 informing me, with reference to my petition of April 1926 soliciting a reconsideration of the orders of Government recognising the adoption of Venkatadri Naika alias Venkataramanaswami Naika by Mudduswami Naika, a Palyegar pensioner, that Government see no reason to reconsider the orders already passed and venture respectfully to submit with reference thereto that the said order appears to have been passed without any enquiry and consideration of the aspects put forward by me as regards the illegality of the said adoption.

Among the several points urged in my petition of April 1926, the following more significant aspects at least call for a consideration :—

1. That the adoption in question is quite contrary and opposed to the spirit and intentions of the Standing Orders of Government as promulgated in No. 1678 of 29th October 1887 which repudiates the adoption of a

member of a different family and of a foreign gotra as it happens to be in the present case.

2. That the adoption, as stated in the Government order itself, was conducted in April 1919, or 2 years prior to the adoptive father's petition to Government praying for permission to adopt. On this ground alone, the adoption deserves to be set aside as no adoption could be effected without the previous sanction of His Highness' Government in the strict interpretation of the standing orders, and no such adoption has actually taken place as far as the petitioner and his near relatives are aware of.

3. That the person adopted is a married man of over 25 years and one who has already performed the obsequies of his deceased natural father.

4. That the person adopted is of quite a different family, namely the Manjarabad family, while the adoption made is to the Rayadrug family.

5. That the person adopted has been drawing a separate pension on his own account in his own family, viz., in the Manjarabad family.

6. And that, above all, the adoption in question was declined by Government on two previous occasions in the following orders :--

(i) No. Fl. 1285/S and A 189-20-8, dated 27—8—1921.

(ii) No. Fl. 27/S and A 111-23-2, dated 2—7—1924.

In placing the above prominent features of my case before you, I now respectfully pray that you may be pleased to send for the records and consider at least the above aspects, if necessary by giving a hearing to me, and should my representation be considered just and reasonable, reconsider the decision passed by the then acting Dewan without any detailed enquiry or report from the State Huzur Treasury Officer, by upholding the previous orders of the Dewan quoted in para 6 declining the adoption which is in strict conformity with the standing orders of 1887.

For which act of kindness, I shall feel highly grateful.

I beg to remain,
Most Respected Sir,
Your most obedient and humble servant,
(Sd.) R. P. Koneti Naika,
No. 131, Cottonpet,
Bangalore City.

Bangalore.
Dated 4—9—1926.

"Copy."

(Sd.) A. Subba Rao,
For Financial Secretary to Government.

EXHIBIT P.

To

Mushir-ul-Mulk Mir Humza Hussain, Esqr., B.A., B.L.,

Dewan of Mysore,

Bangalore.

Sir

In continuation of the application dated 8—8—24 and subsequent reminders regarding my adopting my daughter's son M. V. Venkatadri Naika alias M. V. Venkataramanaswamy Naika, I beg to repeat that I am divided from my distant cousins and they are all 35 and 40 years of age and they also have no male issues. Besides they are not in good terms with me, as can be seen from the police records. They have also been drawing their pension separately.

Owing to my indisposition, I was obliged to adopt my daughter's son and I adopted him on 25—4—1919 only. I therefore beg that you may kindly be pleased to sanction the same. I have repeatedly been begging for the same. I pray you will kindly pass early orders on my application.

I beg to remain,

Sir,

Your most obedient servant.

(Sd.) Mudduswamy Naika,

No. 190 Visweswarapuram,

Bangalore City.

Dated 20—2—25.

EXHIBIT I.

Sree Rama.

On Friday the 10th day of Chaitra Bahula of the year Sidharthi, at 10 ghatikas, corresponding to 25th day of April 1919, at 11 o'clock, Mudduswami Naika, the Palyegar of Rayadurga, residing in Gundopanth Street, Bangalore City, took in adoption in the very house in which he was then living. his douhitra Chi. Venkatadri Naika, the son of his own daughter Gouramma, with the intention of continuing his family line and for his well being both in this and in the other world according to the custom prevailing in the country and amongst his castemen, after performing satisfactorily the

puja of the deity and Brahmins, in our presence. In token whereof we have hereunder attested our signatures.

(Sd.) Purohit Nanjunda Sastri.

,, Chick Krishnappa Naika, Manjarabad Palyegar.

,, B. Kesava Iyengar.

,, C. Garudachar.

,, A. Krishnaswami Iyengar,
Assistant Commissioner,
Dodballapur Division.

25—4—1919.

Writer :—(Sd.) T. Narasinga Rao.

"True copy".